

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

**PARKER EVAN BORNMANN,
Bar No. 024909**

Respondent.

PDJ 2014-9069

FINAL JUDGMENT AND ORDER

Cases in Formal Proceedings:

State Bar File Nos. 12-3006, 13-0685,
13-0794, 13-0868, 13-1078, 13-1349,
13-1422, 13-1618, 13-1623, 13-1815,
13-1817, 13-1854, and 13-2278

Cases for Pre-filing Consent:

State Bar File Nos. 13-2394, 13-2587,
14-0149, 14-0232, 14-0431, 14-0451,
14-0470, 14-0586, 14-0593, 14-1190,
14-1313, 14-1314, 14-1726, 14-1828,
14-2045, 14-2179, 14-2279, 14-2304,
14-2338, 14-2549, 14-2593, and 14-
3167

FILED DECEMBER 31, 2014

The Presiding Disciplinary Judge (PDJ) of the Supreme Court of Arizona, having considered the Agreement for Discipline by Consent filed on December 10, 2014, under Rule 57(a), Ariz. R. Sup. Ct., and there being no objection filed to the Report Accepting Consent for Discipline filed by the PDJ on December 19, 2014, accordingly:

IT IS HEREBY ORDERED that Respondent, **Parker Evan Bornmann**, is suspended for one year, effective January 1, 2015. A suspension of over six months will require proof of rehabilitation and compliance with other requirements prior to

being reinstated to the practice of law in Arizona for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED placing Mr. Bornmann on probation on the following terms:

a. Mr. Bornmann shall pay restitution or provide to the State Bar proof of payment in the following cases, by January 30, 2015, unless the parties, in writing, agree to a different payment plan:

- i. Count 13, SBA no. 13-2278, Borling, \$1,160.00;
- ii. Count 15, SBA no. 13-2587, Bartlett, \$750.00;
- iii. Count 16, SBA no. 14-0149, Day, \$9,680.00;
- iv. Count 24, SBA no. 14-1313, McCabe, \$841.00;
- v. Count 26, SBA no. 14-1726, Ramirez, \$559.50;
- vi. Count 28, SBA no. 14-2045, Hansen, \$200.00;
- vii. Count 29, SBA no. 14-2179, Parent, \$1,000.00, plus the amount of the garnishment to be established by court filings;
- viii. Count 31, SBA no. 14-2304, Harris, \$2,500.00; and
- ix. Count 35, SBA no. 14-3167, Day, \$492.75.

b. Mr. Bornmann shall petition for, and if his former clients accept, participate in fee arbitration in the following cases, to be completed and all awards paid by June 30, 2015:

- i. Count 1, SBA no. 12-3006, De La Luz;
- ii. Count 2, SBA no. 13-0685, Kain;
- iii. Count 4, SBA no. 13-0868, Benson;
- iv. Count 5, SBA no. 13-1078, Mazurkewicz;
- v. Count 8, SBA no. 13-1618, Fickenscher;
- vi. Count 11, SBA no. 13-1817, Nowak;
- vii. Count 12, SBA no. 13-1854, Hampton;
- viii. Count 14, SBA no. 13-2394, Campos-Fuller;
- ix. Count 17, SBA no. 14-0232, Potter;
- x. Count 18, SBA no. 14-0431, Murrieta;
- xi. Count 19, SBA no. 14-0451, Krah;
- xii. Count 20, SBA no. 14-0470, Griffin;
- xiii. Count 22, SBA no. 14-0593, Uthe;
- xiv. Count 23, SBA no. 14-1190, Smith;
- xv. Count 25, SBA no. 14-1314, Diaz;
- xvi. Count 30, SBA no. 14-2279, Rivero;

xvii. Count 32, SBA no. 14-2338, Stokely-Glidden; and
xviii. Count 34, SBA no. 14-2593, Tellez.

c. During his suspension Mr. Bornmann must adhere to and comply with the written business plan he produced to the State Bar detailing his anticipated involvement with the law firm that will employ him (the "new law firm") during his suspension. A copy of that business plan is attached to the parties' consent documents as Exhibit 1, and its terms are incorporated by this reference. The business plan provides a general outline of Mr. Bornmann and the new law firm's intentions while Mr. Bornmann is suspended, and is not intended as a comprehensive enumeration of all of Mr. Bornmann and the new law firm's employees' professional and ethical duties. If information comes to light that Mr. Bornmann or an attorney employed at the new law firm allegedly violated the Rules of Professional Conduct the State Bar retains the right and duty to screen, investigate, and if appropriate prosecute Mr. Bornmann and/or such attorney(s) for any such violation and not only for a violation of the business plan.

d. Mr. Bornmann shall continue to contract with Lynda Shely, as he has during his interim suspension, to act as his and the new law firm's practice monitor to assure compliance with the business plan. Should Ms. Shely discontinue her role as practice monitor for Mr. Bornmann or the new law firm, Mr. Bornmann may contract with a successor agreeable to the State Bar. The State Bar will not unreasonably withhold its agreement to a successor.

e. During his suspension Mr. Bornmann shall maintain and/or obtain professional liability insurance covering claims against him, the law firm he

owned or with which he was associated during the events described in the consent documents, and the new firm, with liability limits no less than \$100,000 per claim. The State Bar will not initiate proceedings against Mr. Bornmann if he produces written corroboration evidence from insurance agents or underwriters that he does not qualify for such coverage.

NON-COMPLIANCE LANGUAGE

If Mr. Bornmann fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, under Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached, and if so, may issue an additional sanction. If there is an allegation that Mr. Bornmann failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that upon reinstatement, Mr. Bornmann shall be placed on probation for two years with the State Bar's Law Office Management Assistance Program ("LOMAP") and Member Assistance Program ("MAP"), or equivalent programs. Any reinstatement hearing panel is not inhibited from imposing additional probationary terms.

IT IS FURTHER ORDERED Mr. Bornmann shall be subject to any additional terms imposed by the Presiding Disciplinary Judge because of reinstatement hearings held.

IT IS FURTHER ORDERED that under Rule 72 Ariz. R. Sup. Ct., Mr. Bornmann shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Mr. Bornmann pay the costs and expenses of the State Bar of Arizona for \$8,851.50, within 30 days from service of this Order unless otherwise agreed in writing by the parties. If costs are not paid within the 30 days, interest will accrue at the legal rate. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office with these disciplinary proceedings.

DATED this 31st day of December, 2014.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 31st day of December, 2014, to:

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Respondent

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by: JAlbright

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

IN THE MATTER OF A MEMBER
OF THE STATE BAR OF ARIZONA,

PARKER EVAN BORNMANN,
Bar No. 024909

Respondent.

No. PDJ-2014-9069

**REPORT ACCEPTING CONSENT
FOR DISCIPLINE**

Cases in Formal Proceedings
[State Bar No. 12-3006, 13-0685,
13-0794, 13-0868, 13-1078, 13-1349,
13-1422, 13-1618, 13-1623, 13-1815,
13-1817, 13-1854, 13-2278]

Cases for Pre-filing Consent:
State Bar Files Nos. 13-2394, 13-2587,
14-0149, 14-0232, 14-0431, 14-0451,
14-0470, 14-0586, 14-0593, 14-
1190, 14-1313, 14-1214, 14-1726,
14-1828, 14-2045, 14-2179,
14,2279, 14-2304, 14-2338, 14-
2549, 14-2593, and 14-3167

FILED DECEMBER 19, 2014

An Agreement for Discipline by Consent was filed on December 10, 2014, and submitted under Rule 57(a), of the Rules of the Arizona Supreme Court. On August 12, 2014, a thirteen count formal complaint was filed. Multiple probable causes orders preceded that filing. Multiple Probable Cause orders have followed the filing of the complaint. Multiple other charges have yet to be presented for Probable Cause. This agreement seeks to resolve all those matters. Rule 57 authorizes filing such

agreements with the presiding disciplinary judge, before or after the authorization to file complaints by probable cause orders, provided the sanction is at least a reprimand. Upon filing such agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate."

A deadline was previously set for filing this agreement. Because the agreement was not filed until the last day of that deadline, this agreement was not sent to the claimants before its filing. All complainants have now been informed they have five (5) business days to file any written objections to the agreement. Some complainants objected. This judge has carefully considered those objections. On page 84 of the Agreement under the title "In Mitigation" Mr. Bornmann was given five days to submit letters "attesting to his good character or reputation." None have been submitted and the deadline to submit them has passed.

Nine clients receive restitution under the agreement. Mr. Bornmann shall be subject to fee arbitration with eighteen other clients. Mr. Bornmann conditionally admits his conduct violated ERs 1.1, 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 3.2, 3.4(c), 5.3, 7.2(c), 7.3, 8.1, 8.4(d), and Rules 41(c), 41(g), 54(c) and 54(d). Extensive terms are detailed in the consent agreement which impose ongoing duties upon Mr. Bornmann. Among these is a business plan which he must adhere to during his suspension. Ms. Lynda Shely shall continue to act as a practice monitor for Mr. Bornmann and the new law firm during his suspension.

GENERAL ALLEGATIONS

In the 114 page consent agreement, thirty five separate counts outline a consistent pattern of misconduct. Mr. Bornmann admits he, or those under his supervision within his office, consistently failed to attend scheduled court hearings,

failed to adhere to court orders, failed to respond to his clients, failed to do the work he was contracted to do, which often caused his clients injury, misled his clients, failed to include ER 1.5(d)(3) language in his fee agreements, failed to issue promised refunds to clients, failed to respond to the requests of substitute attorneys for information and frequently blamed others whom he supervised for these shortcomings.

The admissions here are conditioned on the acceptance of this agreement by this judge. Agreements resolve the controversy existent in each discipline matter. If true, the counts here call for a presumptive multi-year, lengthy period of suspension, if not disbarment. Left unsaid, but inherent in any such agreement, is Mr. Bornmann may well have defenses to one or all of the counts. The State Bar must prove its case in each count by clear and convincing evidence. There may be issues regarding the evidence available to the State Bar. There may be credibility issues or unavailability of witnesses. An agreement balances multiple opposing concerns, as this agreement has, by reducing the suspension while resolving all counts. Mr. Bornmann's failure to respond to the State Bar's screening investigation letters or furnish to the State Bar a copy of his client files, if any existed, would likely be a significant aggravating factor for a hearing panel. That issue is also resolved by the Agreement.

All trials are uncertain. Hearing panels issue rulings based on the evidence brought before them, not what one believes or even hopes may be presented. A hearing panel could issue a significantly longer suspension. A hearing panel could dismiss one or more or all of the counts. Regardless, the one year suspension is not

insignificant and resolves all charges. The agreement for one year suspension is not unreasonable.

It is noted for a violation of ER 3.4(c) and Rule 54(c), a "knowing" mental state is required. The citation to a negligent ABA standard is inapposite. While this judge is not opposed to the stipulated one year suspension, the state of mind must comport with the rules. This judge assumes the parties intended by their reference on page 82 of the Agreement to "[T]he lawyer's mental state" was negligent on the intent of harm to each client but eventually knowing, over time, there was a knowledge these violations could occur or were occurring due to the "ineptitude in business and office management" of Mr. Bornmann. Absent objection by either party, that state of mind is presumed for those rules. Any objection must be filed with the clerk not later than December 24, 2014. The agreement shall be automatically rejected and this matter reset for expeditious hearing if an objection is timely filed.

Further, the PDJ notes restitution is to be paid by Mr. Bornmann by January 30, 2015. Significant costs are to be paid by him within thirty days. It is unclear to the PDJ whether Mr. Bornmann has a present ability to pay such significant funds within such a short window of time. While no modification is being required, it is suggested restitution should take priority over the State Bar costs. Further, considering the large restitution, a sure payment to these clients is better than a speculative or sporadic payment of restitution. The parties may extend the restitution into, by example only, six equal payments with payment in full by a date certain. Payment of State Bar costs should be due within 90 days thereafter. Restitution and costs must be paid in full prior to applying for reinstatement by Mr. Bornmann.

Absent objection by either party filed by December 24, 2014 to the understanding, stated by the PDJ above,

IT IS ORDERED incorporating by this reference the Agreement for Discipline by Consent and any supporting documents by this reference. The agreed upon sanctions are: one year suspension, payment in full of stated restitution, and petition for fee arbitration in 18 other separate matters by stated date as a condition of reinstatement. Upon reinstatement, Mr. Bornmann shall be upon specified terms of probation for two years. During his suspension Mr. Bornmann must adhere to and comply with a written business plan he produced to the State Bar detailing his anticipated involvement with the law firm that will employ him during his suspension. Mr. Bornmann and that firm will continue to contract with Lynda Shely to act as his and the new law firm's practice monitor. Mr. Bornmann also agrees to pay in full costs of \$8,851.50 and all restitution associated with the disciplinary proceedings prior to applying for reinstatement.

Further, absent objection by either party filed by December 22, 2014 to the understanding, stated by the PDJ above, and over the objection of those complainants who timely filed such objections,

IT IS ORDERED the Agreement for Discipline by Consent discipline is accepted. A final judgment and order was submitted simultaneously with the Agreement. Restitution is approved in the amount listed. Costs as submitted are approved for \$8,851.50. The proposed final judgment and order having been reviewed are approved as to form. Now therefore, the final judgment and order will be signed on December 26, 2014. The payment schedule for the payment of restitution and costs may be modified by written stipulation between the parties. It

need not be filed with the clerk unless non-compliance is an issue. No amended judgment or order shall be required reflect any such modification. The suspension shall be effective per the agreement, January 1, 2015.

DATED this 19th day of December, 2014.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 19th day of December, 2014.

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by: JAlbright

DEC 10 2014

BY  FILED

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Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

IN THE MATTER OF A CURRENT MEMBER
OF THE STATE BAR OF ARIZONA,

**PARKER EVAN BORNMANN,
Bar No. 024909**

Respondent.

PDJ 2014-9069

Cases in Formal Proceedings:
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13-1422, 13-1618, 13-1623, 13-1815,
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14-2045, 14-2179, 14-2279, 14-2304,
14-2338, 14-2549, 14-2593, and 14-
3167

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Parker Evan Bornmann, who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a),

Ariz. R. Sup. Ct.¹ Probable cause orders were entered in the following pre-filing consent cases: August 25, 2014 in 13-2394, 14-0149, and 14-0232; September 23, 2014 in 13-2587, 14-0431, and 14-1313; and October 20, 2014 in 14-0451, 14-0586, and 14-0593. Formal complaints have not yet been filed in those matters. Probable cause orders have not been filed in the following pre-filing consent matters: 14-0470, 14-1190, 14-1314, 14-1726, 14-1828, 14-2045, 14-2179, 14-2279, 14-2304, 14-2338, 14-2549, 14-2593, and 14-3167.

On November 7, 2014, the parties attended a settlement conference presided over by Settlement Conference Hearing Officer Gary Stuart. With the aid of Mr. Stuart's gracious participation the parties reached the agreement described herein, with which Mr. Stuart concurs.

Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), notice of this agreement is being provided to the complainants either by letter, email, or telephone, on December 10 and 11, 2014. Complainants will have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.1-Competence, 1.2-Scope of Representation and Allocation of

¹All references herein to rules are to the Arizona Rules of the Supreme Court unless otherwise expressly stated.

Authority between Client and Lawyer, 1.3-Diligence, 1.4-Communication, 1.5-Fees and Fee Agreements, 1.15-Safekeeping Property, 1.16(d)-Terminating Representation, 3.2-Expediting Litigation, 3.4(c)-Fairness to Opposing Party and Counsel, 5.3-Responsibilities Regarding Nonlawyer Assistants, 7.2(c)-advertising, 7.3-Direct Contact with Prospective Clients, 8.1-Disclosure to Disciplinary Authority, 8.4(d)-Misconduct Prejudicial to the Administration of Justice; Rule 41(c)-Duty to Maintain Respect to Courts and Judicial Officers; Rule 41(g)-Unprofessional Conduct; Rule 54(c)-Violation of Rule or Court Order; and Rule 54(d)-Violation of State Bar Obligation in a Disciplinary Investigation.

Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline:

1. A suspension of one year, effective January 1, 2015. A suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona;

2. Probation on the following terms:

a. Restitution or proof of payment in the following cases, by January 30, 2015:

- i. Count 13, SBA no. 13-2278, Borling, \$1,160.00;
- ii. Count 15, SBA no. 13-2587, Bartlett, \$750.00;
- iii. Count 16, SBA no. 14-0149, Day, \$9,680.00;
- iv. Count 24, SBA no. 14-1313, McCabe, \$841.00;
- v. Count 26, SBA no. 14-1726, Ramirez, \$559.50;
- vi. Count 28, SBA no. 14-2045, Hansen, \$200.00;
- vii. Count 29, SBA no. 14-2179, Parent, \$1,000.00, plus the amount of the garnishment to be established by court filings;
- viii. Count 31, SBA no. 14-2304, Harris, \$2,500.00; and
- ix. Count 35, SBA no. 14-3167, Day, \$492.75;

b. Fee arbitration in the following cases, to be completed and all awards paid by June 30, 2015:

- i. Count 1, SBA no. 12-3006, De La Luz;
- ii. Count 2, SBA no. 13-0685, Kain;
- iii. Count 4, SBA no. 13-0868, Benson;
- iv. Count 5, SBA no. 13-1078, Mazurkewicz;
- v. Count 8, SBA no. 13-1618, Fickenscher;
- vi. Count 11, SBA no. 13-1817, Nowak;
- vii. Count 12, SBA no. 13-1854, Hampton;
- viii. Count 14, SBA no. 13-2394, Campos-Fuller;
- ix. Count 17, SBA no. 14-0232, Potter;
- x. Count 18, SBA no. 14-0431, Murrieta;
- xi. Count 19, SBA no. 14-0451, Krah;
- xii. Count 20, SBA no. 14-0470, Griffin;
- xiii. Count 22, SBA no. 14-0593, Uthe;
- xiv. Count 23, SBA no. 14-1190, Smith;
- xv. Count 25, SBA no. 14-1314, Diaz;
- xvi. Count 30, SBA no. 14-2279, Rivero;
- xvii. Count 32, SBA no. 14-2338, Stokely-Glidden; and
- xviii. Count 34, SBA no. 14-2593, Tellez.

c. During his suspension Respondent must adhere to and comply with the written business plan he produced to the State Bar detailing his anticipated involvement with the law firm that will employ him (the "new law firm") during his suspension. A copy of that business plan is attached hereto as Ex. 1, and its terms are incorporated herein by this reference. The parties agree that the business plan provides a general outline of Respondent's and the new law firm's intentions while Respondent is suspended, and is not intended as a comprehensive enumeration of all of Respondent's and the new law firm's employees' professional and ethical duties. If information comes to light that Respondent or an attorney employed at the new law firm allegedly violated the Rules of Professional Conduct the State Bar retains the right and duty to screen, investigate, and if appropriate prosecute Respondent and/or

such attorney(s) for any such violation and not only for a violation of the business plan.

d. Respondent shall continue to contract with Lynda Shely, as he has during his interim suspension, to act as his and the new law firm's practice monitor to assure compliance with the business plan. Should Ms. Shely choose to discontinue her role as practice monitor for Respondent or the new law firm, Respondent may contract with a successor agreeable to the State Bar. The State Bar will not unreasonably withhold its agreement to a successor;

e. During his suspension Respondent shall maintain and/or obtain professional liability insurance covering claims against him, the law firm he owned or with which he was associated during the events described below, and the new firm, with liability limits no less than \$100,000 per claim. The State Bar will not initiate proceedings against Respondent if he produces written, corroborable evidence from insurance agents or underwriters that he does not qualify for such coverage.

3. Upon his reinstatement, Respondent shall be placed on probation for two years with the State Bar's Law Office Management Assistance Program ("LOMAP") and Member Assistance Program ("MAP"), or equivalent programs. Nothing stated herein shall inhibit a reinstatement hearing panel from imposing additional probationary terms.

4. Respondent agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and if costs are not paid

within the 30 days, interest will begin to accrue at the legal rate.² The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit 2.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on November, 30, 2006.

COUNT ONE (File no. 12-3006/ De La Luz)

2. In August 2012, Ms. Martha De La Luz hired Respondent and paid him \$1,200 believing that he would have her appointed guardian of her grandchildren who then were in custody of Child Protective Services ("CPS").

3. Ms. De La Luz gave Respondent all relevant paperwork.

² Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

4. Respondent lost the paperwork and was unable to duplicate it from CPS files.

5. Respondent was late for a September 2012 hearing and when he appeared, he spent most of the time using his cell phone.

6. Respondent did not appear for October or November hearings.

7. Respondent served defendants in December 2012, but Ms. De La Luz thereafter heard nothing from Respondent regarding the status of matters.

8. Respondent did not return Ms. De La Luz's phone calls.

9. In September 2013, Ms. De La Luz terminated Respondent and asked for a refund and accounting of fees.

10. Respondent did not respond to Ms. De La Luz's request for a refund and accounting of fees.

11. Respondent did not respond to the State Bar's screening investigation letter dated October 9, 2013, by the initial (October 29, 2013) or extended (November 30, 2013) deadlines.

12. On December 9, 2013, Respondent sent an email to the State Bar saying he would respond to the State Bar's screening investigation letter by the following day.

13. Respondent did not respond to the State Bar's screening investigation letter by the following day, or at all.

14. In its October 9, 2013, screening investigation letter Bar Counsel asked Respondent to furnish a copy of his client case file.

15. Respondent did not furnish to the State Bar a copy of his client case file.

16. Ms. De La Luz provided a copy of the fee agreement.

17. Respondent's "Standard Billing" paragraph read:

An advance payment of fees in the amount of \$1,200 is required. All retainer amounts are considered earned upon receipt, and are based upon actual work required for your case. If representation is terminated prior [to] the use of the entire retainer fee, the firm will refund the retainer amount minus any applicable billed hours, costs or expenses. There is a non-refundable administrative fee of \$250 that applies to all matters for the costs of opening your file and inputting your information into our file system.

Elsewhere Respondent identified his hourly rate at \$235.

COUNT TWO (File No. 13-0685/Kain)

18. Ms. Chrystal Kain has a daughter named Kayle. Ms. Kain and Kayle's father divorced in 2004. The father was daughter Kayle's custodial parent.

19. In 2012 Ms. Kain retained Respondent to seek joint custody and revised visitation.

20. Ms. Kain paid Respondent \$3,000.

21. In September 2012 Respondent filed a Petition to Modify Custody, Parenting Time, and Support, a Notice of filing the same, and a Petition for Temporary Orders.

22. Respondent filed the Affidavit of Service on September 17.

23. On October 1, 2012, the father filed a Response to the Petition to Modify, and Counterclaim.

24. On October 22, Maricopa County Superior Court Judge Bethany Hicks denied the Petition for Temporary Orders, finding that there was no emergency that warranted the requested relief.

25. In a separate order the court directed Petitioner (Ms. Kain and Respondent) to "Comply With Steps Required by Arizona Law" under Rule 91(D) (Family Law Rules of Procedure) and A.R.S. §25-411.

26. The court ordered them to serve a copy of the Petition and Notice of Filing the Petition.

27. The court also ordered them to serve a copy of the October 22 order.

28. On February 15, 2013, the court issued a minute entry dismissing the Petition to Modify due to Petitioner's failure to comply with the court's earlier order to Comply With Steps, etc.

29. The court determined that there was no proof that the Petition to Modify was served and that Petitioners had neither filed nor provided to the assigned court division a Request for Order Granting or Denying Custody Hearing, as required by Rule 91(D)5.

30. The court signed the minute entry as a formal order under Rule 81(d).

31. From the inception of the representation, Ms. Kain tried to obtain status information from Respondent but he did not return calls or emails.

32. When Ms. Kain learned that the court dismissed her case because Respondent did not file correct or necessary documents, she asked for a billing statement and refund but Respondent failed to respond.

33. Ms. Kain reported Respondent to the State Bar in March 2013.

34. A State Bar Attorney/Consumer Assistance Program ("A/CAP") counsel contacted Respondent and he communicated with Ms. Kain.

35. Respondent admitted that he made a mistake in not filing a request for hearing, believing that most courts did not require it.

36. Respondent agreed to correct the error for no additional fee. A/CAP Counsel closed the State Bar's file.

37. On July 30, 2013, Respondent filed a Request for Order Granting Hearing.

38. On August 8, 2013, the court denied the request because it had dismissed the case back in February.

39. Once again, Ms. Kain tried to communicate with Respondent over his plans to fix the situation but could not reach Respondent.

40. Ms. Kain wrote to Respondent on September 9, 2013, to fire him and request a refund so she could hire a new lawyer and restart her case from the beginning.

41. Respondent failed to respond so Ms. Kain re-contacted the State Bar on October 2, 2013.

42. A/CAP Counsel contacted Respondent who blamed a former paralegal for damaging the case.

43. Respondent agreed to work things out with Ms. Kain.

44. As of October 24, 2013, Respondent had not issued a refund and Respondent's office ignored or evaded Ms. Kain's questions and concerns.

45. Respondent moved to withdraw as counsel of record in December 2013 and the court granted that motion in January 2014.

46. Respondent did not respond to the State Bar's screening investigation by the initial (November 1, 2013) or extended (December 2, 2013) deadlines.

47. On December 9, 2013, Respondent sent an email saying he would respond by the following day but Respondent did not do so.

48. Bar Counsel asked Respondent to furnish a copy of his case file but Respondent failed to respond to that request.

COUNT THREE (File No. 13-0794/Katscher)

49. Ms. Dianne Katscher's husband of 37 years died after a 14 year-long illness that depleted her savings and retirement fund.

50. Ms. Katscher answered an ad for a free consultation with Respondent and met with him in 2011 about a bankruptcy.

51. Respondent gave her a fee agreement that she did not sign but, rather, took home with her while she mulled things over.

52. Ms. Katscher did, however, pay Respondent a \$500 deposit toward fees to be charged if she chose to proceed.

53. After thinking about it, Ms. Katscher chose not to proceed with filing for bankruptcy protection.

54. Ms. Katscher contacted Respondent's office in early 2012 and requested that Respondent return her deposit.

55. A woman took the message and said she would pass along the request to Respondent but told Ms. Katscher she thought too much time had passed for Ms. Katscher to qualify for a refund.

56. Ms. Katscher did not hear back from Respondent so in about August 2012 she sent him a certified letter requesting a refund, to which he still did not respond. She followed up with phone calls that went unanswered.

57. Ms. Katscher contacted the State Bar in April 2013. A/CAP Counsel called Respondent.

58. Respondent claimed that his office had been trying to reach Ms. Katscher because she never got back to them after the initial meeting.

59. Respondent claimed that someone in his office left Ms. Katscher a message in July 2011, and spoke to her in November 2011 and again in October 2012.

60. Respondent claimed that Ms. Katscher said she wanted to proceed, and complained that certain creditors were harassing her, but then she said that she had paid another firm to represent her.

61. Respondent claimed that in November 2012, Ms. Katscher called to request a refund but Respondent did not receive a certified letter from her to that effect, perhaps (he claimed) because it went to a P.O. Box. Respondent agreed to send Ms. Katscher a refund once he ascertained that he did not have a fee agreement.

62. A/CAP Counsel told Ms. Katscher to expect a check the following week, to call back if she did not receive a check, and closed the file.

63. Ms. Katscher did not receive a refund check within one week.

64. On May 7, 2013, Ms. Katscher did receive a solicitation letter from Respondent "Re: Your Pending DUI Matter in Scottsdale City Court." It was addressed, "Dear Ms. Dianne" and states, "This letter is being sent to you because public records indicate that you may have been recently charged with Driving Under the Influence in Scottsdale, Arizona." The letter reflects that Respondent did not know who Ms. Katscher is.

65. On June 8, 2013, Ms. Katscher told A/CAP Counsel that she had not received her refund. A/CAP Counsel sent Respondent an email about it. By June 18, Ms. Katscher still had not received her refund.

66. At that point, A/CAP Counsel told Ms. Katscher to send a written charge and the matter was referred to bar counsel for screening.

67. Respondent responded in August 2013. When A/CAP counsel contacted him in April about the refund, Respondent claims that he sent Ms. Katscher a check but it was not cashed.

68. When A/CAP counsel contacted Respondent again in June, Respondent sent another check and it was cashed within one week.

69. In follow-up screening bar counsel asked Respondent if he deposited Ms. Katscher's \$500 payment into his Interest on Lawyer's Trust Account ("IOLTA") and, if so, to furnish copies of his IOLTA general and client ledgers reflecting the deposit and refund.

70. Bar counsel asked Respondent if he did not deposit the \$500 into his IOLTA to explain why not.

71. Respondent did not respond to these questions and requests for documents.

72. Also in follow-up screening, bar counsel asked Respondent:

If the first check you issued to her that she never cashed was returned to you please forward a copy of it, too. If it was not returned to you please forward a copy of your checkbook entry showing the check stub or other evidence that you sent it, along with any cover letter or note that accompanied it.

73. Respondent did not respond.

74. Respondent did produce a copy of his non-IOLTA check no. 3078 dated June 21, 2013, for \$500 payable to Ms. Katscher. Ms. Katscher's endorsement appears on the reverse side of the check and Ms. Katscher acknowledged receiving the refund in June 2013.

75. Because the check is not an IOLTA check Respondent must have deposited Ms. Katscher's \$500 payment into his business account and deemed it "earned on receipt." From evidence produced in connection with Respondent's other bar charges it is known that his fee agreement did not contain ER 1.5(d)(3)-compliant refund language.

76. Also in follow-up screening, bar counsel asked Respondent:

Please furnish proof that you complied with Supreme Court Rule 42, ER 7.3(c)(1) with respect to the solicitation for legal services you sent to Ms. Katscher, and with respect to all other solicitations for legal services for the years 2012, 2013, and Jan-Apr. 2014. If the requested proof will exceed 250 copies of documents, please let me know prior to delivering them.

77. Respondent did not respond to this request or furnish copies of any of the requested items.

78. The State Bar maintains records of attorneys' compliance with solicitation and advertising rules and has no records regarding Respondent.

COUNT FOUR (File No. 13-0868/Benson)

79. Ms. Julieta Benson's husband Scott filed a petition for divorce and asked for custody and child support.

80. According to Respondent, Scott harassed Ms. Benson for temporary support. She hired Respondent on short notice prior to a temporary orders hearing to represent her.

81. The fee was hourly; Ms. Benson paid \$1,550 in advance.

82. Respondent assembled a file and prepared for the temporary orders hearing.

83. The court's temporary order awarded joint legal decision making but designated Scott the primary residential parent and ordered Ms. Benson to pay \$385 per month child support.

84. The court set the case for trial in May 2013 and scheduled a settlement conference for March 2013.

85. Phone logs and an itemized statement for the period November 2012 through April 2013 show that Ms. Benson called Respondent's office frequently.

86. Most of the phone conversations were between Ms. Benson and Respondent's paralegal, Cheri.

87. Respondent met with Ms. Benson twice and spoke with her on the phone once.

88. Ms. Benson left voice mails several other times.

89. Ms. Benson did not feel as though her questions were answered so prior to the March 2013 settlement conference she dismissed Respondent and hired new counsel.

90. Respondent acknowledged that Cheri did not give him all messages from Ms. Benson and, in fact, deleted a message trail.

91. Respondent terminated Cheri.

92. Ms. Benson scheduled an appointment to meet with Respondent but was kept waiting four hours while he was in a Tucson court. She ended up losing a full workday.

93. On March 19, 2013, Ms. Benson's new counsel asked for Respondent's file and an accounting of fees.

94. New counsel learned that the settlement conference was scheduled for March 28, 2013.

95. On March 26 new counsel and Scott (acting in *pro per*) filed a stipulation agreeing to postpone the settlement conference because there was nothing meaningful in the file new counsel obtained that enabled him to prepare for the conference or render it fruitful.

96. The file new counsel inherited lacked any outgoing discovery or court filings from Respondent, there had been no exchange of discovery or disclosures, there were no settlement conference preparation notes, and there were no minute entries from the settlement conference judge.

97. The court postponed the settlement conference to August 2013, and the trial from May to September 2013.

98. Scott retained counsel and the case settled in August 2013. Scott remained the primary residential parent and Ms. Benson was ordered to pay \$336.60 per month in child support.

COUNT FIVE (File No. 13-1078/Mazurkewicz)

99. Ms. Donna Mazurkewicz and her husband Robert were divorced in 2005.

100. In March 2013, Robert filed and served Ms. Mazurkewicz with a Petition to Modify Custody and Child Support, and OSC re: Ms. Mazurkewicz's alleged failure to comply with prior custody orders.

101. Ms. Mazurkewicz's deadline to file a response to the petition was April 18, 2013.

102. On April 9, 2013, Ms. Mazurkewicz met with someone in Respondent's office, and hired Respondent on April 15.

103. Ms. Mazurkewicz paid Respondent \$1,200.

104. Ms. Mazurkewicz alleged that Respondent never met with her; however, Respondent recalls meeting with Ms. Mazurkewicz because of her "unique red hair color."

105. Respondent prepared a three-page response (plus three exhibits) to Robert's petition and dated it April 18, 2013.

106. Respondent also certified at the end "ORIGINAL FILED on this date to: Clerk of the Court, Maricopa County Superior Court" and that copies were mailed to the judge and opposing counsel the same date.

107. Respondent did not actually file the response until April 24.

108. Respondent told A/CAP Counsel that "for some reason it wasn't docketed until April 24."

109. Although he was working on short notice Respondent could have filed the response on April 18.

110. Opposing counsel requested a hearing on Robert's petition.

111. The court set a hearing for May 2013 to consider Robert's petition and Ms. Mazurkewicz/Respondent's response.

112. Ms. Mazurkewicz and her husband learned that Respondent did not meet the April 18 filing deadline.

113. According to Respondent, Ms. Mazurkewicz thereafter regularly called Respondent's office angrily and accused paralegal Cheri of failing to provide copies of court-stamped filing and minute entries that would prove that documents were timely filed and that the court had the matter on its agenda.

114. Ms. Mazurkewicz fired Respondent and hired new counsel in time for the May 2013 hearing.

115. The court set a child interview for June and a new hearing date for August.

116. Respondent failed to respond to Ms. Mazurkewicz's new attorney's request for information during the transition period.

117. After the August hearing, the court denied Robert's petition.

118. Respondent acknowledged that Cheri "checked out mentally from work" in May while, unbeknownst to him, she looked for work elsewhere and lied to him about completing client tasks.

119. Respondent terminated Cheri and found some unanswered emails.

120. Respondent claims that Ms. Mazurkewicz's accusations were consistent with her "profanity laden reviews on YELP.com."

121. What Ms. Mazurkewicz actually wrote was:

crap lawyer crap firm . . . never did a thing for my case . . . just took my retainer and ran . . . no answer my termination letter or the small claims court dispute filed against him asking for full refund . . . ive (sic) contacted the state bar the BBB whom he never responded to them either . . . BEWARE and stay away.

COUNT SIX (File No. 13-1349/Simmonds)

122. Timberly Simmonds filed for divorce from Glen Simmonds in April 2013. Mr. Simmonds hired Respondent to represent him. The primary issues were child custody and support for their three-year-old son.

123. Respondent planned to file a motion for temporary orders but Timberly's lawyer did so first and a two-hour hearing was set for August 6, 2013, at 2:00 p.m. Respondent filed a response on August 5.

124. Timberly and Mr. Simmonds did not get along. They had a "tug-of-war" incident over their son at a park and exchanged accusatory text messages.

125. Mr. Simmonds was cited for a DUI but did not lose his license and had not been convicted.

126. The court later found both parties to have emotional and adjustment issues.

127. From April to July 2013, Mr. Simmonds called and emailed Respondent's office multiple times. Respondent's paralegal, Amanda, had most of the contact with Mr. Simmonds and she answered Mr. Simmonds' questions.

128. On August 6, Timberly and her counsel appeared for the 2:00 p.m. hearing, as did Mr. Simmonds, but Respondent did not.

129. The court began the hearing at 2:13 p.m. and stated in its later minute entry:

The court notes that respondent/father's counsel has not appeared. Mr. Bornmann having failed to advise the division that he has a conflict today due to being in another hearing in another courtroom or to request a continuance of this hearing, and based on the limited amount of time allotted for this hearing today, the Court elects to proceed with the hearing.

130. The court acknowledged receiving Respondent's response to Timberly's motion for temporary orders. Timberly's counsel waived opening statements. The court addressed Mr. Simmonds regarding hearing procedures. Timberly's lawyer invoked the rule excluding witnesses, and Mr. Simmonds said he would not call his girlfriend as a witness. Timberly was sworn to testify and began testifying.

131. Respondent appeared at 2:34 p.m.

132. The court entered temporary orders that the parties were to share joint legal decision making authority, Timberly was to have primary parenting time, and Mr. Simmonds was to pay \$562 per month in support.

COUNT SEVEN (File No. 13-1422/De Alba)

133. In February 2013, Mr. Fernando De Alba retained Respondent to represent him in a divorce with a minor child.

134. Mr. De Alba paid Respondent's fees of \$1,250.00.

135. Respondent filed a Petition for Dissolution with Minor Children on April 30, 2013, and a Motion for Temporary Orders re: Custody and Parenting Time on June 4.

136. Mr. De Alba and his wife exchanged accusations of drug use, promiscuity, and parental unfitness.

137. Mr. De Alba alleged that Respondent did not return calls or answer questions. Respondent's paralegal, Amanda, reminded Mr. De Alba that his issues would be addressed at the temporary orders hearing.

138. The court set a resolution management conference on the temporary orders for July 3, 2013, at 8:30 a.m. The minute entry for July 3 states that the matter was called at 8:39 a.m. Mr. De Alba and his unrepresented wife were present on their own behalf. Respondent failed to appear for the beginning of the conference.

139. The court's minute entry states: "Discussion is held. LET THE RECORD REFLECT counsel for [Mr. De Alba], Parker Bormann, is now present in the courtroom." The judge issued orders and established dates and deadlines, and the matter concluded at 8:54 a.m.

140. The court scheduled the temporary orders hearing for July 17, 2013 at 9:00 a.m. The court called the temporary orders hearing on July 17, at 9:16 a.m. Mr. De Alba and his unrepresented wife were present on their own behalf; Respondent did not appear.

141. At Mr. De Alba's request, the court terminated the attorney/client relationship between him and Respondent "due to Mr. Bornmann's non-appearance in Court." The judge ordered Respondent to give Mr. De Alba a complete copy of his case file and, within 30 days, to refund the entire attorney's fee of \$1,250.00.

142. Mr. De Alba and his wife reached an agreement on temporary orders.

143. On August 30, 2013, Respondent gave Mr. De Alba his file and a check for \$1,250.00. The payment was two weeks beyond the court-ordered deadline.

COUNT EIGHT (File No. 13-1618/Fickenscher)

144. Ms. Teresa Fickenscher hired Respondent to represent her in a simple divorce with no children.

145. The written fee agreement is dated March 8, 2013, and called for a flat fee but the amount of the fee is not stated.

146. Ms. Fickenscher paid \$900 and later claimed that she owed \$600. Respondent claims that Ms. Fickenscher owes another \$900.

147. The flat fee is termed "earned upon receipt, and is one half refundable upon request of the client prior to completion of any work on your case." The fee agreement does not contain the refund language required by ER 1.5(d)(3).

148. The case went smoothly. Respondent filed the action and husband's acceptance of service, attended the Resolution Management Conference, reached a settlement, prepared and lodged a divorce decree by consent, and obtained the judge's signature on the decree. The entire process took 90 days.

149. Respondent produced a telephone log and one email exchange between Ms. Fickenscher and paralegal, Amanda.

150. There were two stretches of several weeks from March to April and April to May, 2013, during which Ms. Fickenscher called Respondent's office and either was unable to reach Respondent personally or did not receive a return call from anyone.

151. Ms. Fickenscher was anxious to complete the divorce as quickly as possible to enable her to buy a business.

152. The parties signed the consent decree in early June 2013.

153. Ms. Fickenscher called Respondent's office to ascertain whether the judge had signed the decree. "Cynthia" told Ms. Fickenscher that she called the court and learned that the judge had not signed off yet.

154. Ms. Fickenscher called the court and learned that the judge had signed the decree ten days earlier (June 14, 2013).

COUNT NINE (File No. 13-1623/Withers)

155. Mr. Randall Withers paid Respondent a flat fee, "earned upon receipt," of \$1,250 to represent him in a family law matter.

156. The written fee agreement incorrectly states Respondent's obligation to refund unearned fees, and does not contain ER 1.5(d)(3)-compliant language.

157. The case resolved satisfactorily early in the litigation.

158. Starting in January 2013, Mr. Withers asked Respondent's paralegal Cheri for an accounting of fees and services to determine if he was due a refund.

159. Cheri relayed the request to Respondent. Respondent knew that Mr. Withers contacted his office in April 2013 still seeking billing information and believed that Cheri sent him a bill.

160. Since Mr. Withers' case was closed, Respondent did not follow up with Mr. Withers to determine if the bill was satisfactory.

161. Mr. Withers did not get a bill.

162. Respondent explained that Cheri assured him she was attending to client matters including sending out client bills when, in fact, she was not.

163. When Respondent confronted her with evidence that she had failed to do her job (he recovered deleted emails that Cheri thought she purged from her trash box), in May 2013 she abruptly left the firm.

164. By July 2013, the date Mr. Withers sent his written charge to the State Bar, Respondent had not provided the accounting.

165. Respondent provided an accounting in response to screening that itemized \$1,402.80 worth of services at \$235/hr. for his time and \$95/hr. for paralegal time.

COUNT TEN (File No. 13-1815/Nelson)

166. In September 2012, Mr. Jeffrey Alan Nelson hired Respondent to represent him in a Chapter 7 bankruptcy.

167. Mr. Nelson paid Respondent \$1,806 including the \$306 filing fee.

168. Respondent did not file the petition until February 20, 2013, because, according to him, Mr. Nelson did not provide all necessary information for the financial schedules.

169. Respondent filed a "skeleton" (his word) petition intending to supplement it later. The court clerk almost immediately served notice of incomplete and/or deficient filings and that the case would be dismissed within certain prescribed times if the debtor did not cure the three deficiencies. The notice also stated:

FAILURE TO FILE THE MISSING DOCUMENTS WITHIN 45 DAYS FROM
THE DATE OF THE FILING OF YOUR BANKRUPTCY PETITION MAY

RESULT IN THE COURT DENYING YOUR MOTION TO REINSTATE YOUR CASE.

170. Bankruptcy Judge Collins dismissed the case on March 7, 2013, due to the missing filings.

171. On April 5, Respondent filed the previously missing schedules and statements, and filed a Motion to Vacate Order of Dismissal and Reinstate Case. Judge Collins denied the motion because there was "no showing of facts or circumstances of this case supporting the relief sought."

172. Respondent filed a Motion for Reconsideration. On May 1, 2013, Judge Collins denied it because "Debtor fails to provide a reason as to why the required documents were not timely filed."

173. In July 2013, Respondent filed a new bankruptcy petition for Mr. Nelson. Almost immediately, the court clerk issued the same deficient filing notice and dismissal warning he issued in the first case.

174. Respondent filed a motion to extend the time limits and the court granted it. The new filing deadline was August 9, 2013.

175. On August 7, the court issued a Warning Notice to Attorney RE: Non-Compliance with Local Rule 1007-1(c) (Declaration RE Electronic Filing). The court warned that it would dismiss the case if the debtor did not file the declaration within 21 days.

176. The court dismissed the case (and the automatic stay) on August 27, because Respondent did not file the Declaration of Electronic Filing.

177. Respondent filed the Declaration of Electronic Filing it on August 28 along with a Motion to Reinstate the Case. Judge Curley granted the motion and reinstated the case on September 5.

178. On October 23, 2013, the clerk issued a notice that the court would not enter Mr. Nelson's discharge because he had not filed the required Certification of Completion of Instructional Course Concerning Personal Financial Management.

179. Mr. Nelson had taken the course and filed the certificate in the first case. Respondent's associate re-filed the certification on November 1, 2013.

180. Mr. Nelson received his Chapter 7 discharge on November 19, 2013, 14 months after he hired and paid Respondent to represent him.

181. Mr. Nelson denies that any delays were occasioned by his failure to provide Respondent with necessary financial information or other documents. Mr. Nelson sent Respondent 103 emails with information, attachments, or inquiries as to why the case was not moving along.

182. Mr. Nelson lives in Wickenburg and six times took time off work to drive to Respondent's Mesa office to prod him into action.

183. Mr. Nelson's financial standing was extremely stressful and Respondent added to his anxiety by failing to address his matter in a timely and diligent fashion.

COUNT ELEVEN (File No. 13-1817/Nowak)

184. Ms. Leigha Nowak, *in pro per*, filed a paternity and child support action against her former boyfriend in August 2012. The boyfriend, also *in pro per*, admitted paternity but contested custody and support.

185. Ms. Nowak contacted Respondent in February 2013 regarding the matter. Respondent quoted her a fee of \$1,750.00.

186. The boyfriend retained counsel on May 7, 2013.

187. Ms. Nowak paid Respondent \$1,750 on May 17, 2013, in a credit card telephone transaction. Respondent did not, however, provide to Ms. Nowak a written communication of fees and expenses.

188. Ms. Nowak called Respondent's office asking for a fee agreement.

189. Ms. Nowak did not have a computer or use email so Respondent's assistant said she would mail Ms. Nowak the fee agreement.

190. The fee agreement never arrived at Ms. Nowak's home so finally she went to Respondent's Tucson office and had him FAX the agreement there, where she signed it on June 3, 2013.

191. The fee agreement calls for a "Standard Billing" arrangement by which Ms. Nowak made an advance payment of \$1,750.00 "earned upon receipt."

192. The agreement also called for a non-refundable \$250 "administrative fee."

193. When the advance was depleted Respondent was to bill monthly for additional services at \$235/hr.

194. In his response to screening, however, Respondent termed the fee arrangement a flat fee, earned upon receipt, and said that Ms. Nowak made only a partial payment.

195. The written fee agreement does not contain ER 1.5(d)(3)-compliant refund language.

196. On June 4, 2013, Respondent sent a Notice of Appearance to the Pima County Superior Court clerk's office for filing. It was filed on June 10.

197. Through June 24, however, Ms. Nowak received documents from the opposing counsel and the court, and could not understand why those documents were not sent to Respondent.

198. Ms. Nowak called the clerk's office to see if Respondent filed a Notice of Appearance and was told that he had not.

199. Upset with Respondent, she fired him; Respondent and new counsel stipulated to a substitution of counsel on July 1, 2013.

200. Respondent billed \$659.50 against the \$1,750 advance.

201. Respondent charged the \$250 administrative fee on June 3; \$57.00 on June 4 for his paralegal to prepare the Notice of Appearance and cover letter to the court clerk; and \$352.50 on June 4 for 1.5 hours at \$235/hr. to review the Notice of Appearance and review the entire file and case docket on the Pima County Website.

202. Respondent sent the balance of funds to substitute counsel who represented Ms. Nowak for the rest of the case.

203. Thirty minutes was adequate to review and ponder every filing in the case through June 10, 2013.

COUNT TWELVE (File No. 13-1854/Hampton)

204. In February 2013, Arizona DES filed a paternity action against Keith Leblance seeking recognition that Mr. Leblance fathered a child (Matthew) with Ms. Valerie Hampton. Arizona DES also sought child support payments for Ms. Hampton and reimbursement to DES.

205. Mr. Leblance thereafter filed a Motion for Temporary Orders seeking parenting time with Matthew and a deviation from child support guidelines for him and the couple's other child, Micah.

206. On May 14, 2013, the court entered judgment that Mr. Leblance is Matthew's father and owed a duty of support but deferred a decision on the amount of support. The court set a Resolution Management Conference on the temporary orders for May 29.

207. Ms. Hampton called Respondent's office on May 23 and retained him by phone. The fee agreement called for a payment of a \$2,500 "retainer" with \$1,500 down and \$150/mo. "Beginning 30, 2013" until paid in full.

208. The fee is termed "earned upon receipt" and includes a "non-refundable administrative fee of \$250 that applies to all matters for the cost of opening your file and inputting your information into our file system." If Ms. Hampton incurred more fees at \$235/hr. for Respondent and \$95/hr. for his legal assistant beyond the "initial retainer amount," Ms. Hampton was to continue to pay \$150/mo.

209. In response to screening Respondent said that he charged Ms. Hampton a flat fee. Respondent's characterization of his fee for representing Ms. Hampton as a flat fee is inconsistent with the content of his written fee agreement.

210. Ms. Hampton initialed the space next to "Standard Billing," the space next to "Flat-Fee Agreement" is blank, and there appears this legend in the written agreement: "WORK TO BE PERFORMED UNDER FLAT FEE AGREEMENT: Attorney
N/A Client: N/A."

211. Respondent did not actually talk to Ms. Hampton until 6:00 p.m. on May 28, 2013, the day before the temporary orders hearing. Respondent told her that due to a schedule conflict he could not appear but that his associate Jonathon Simon would.

212. Ms. Hampton did most of the talking at the hearing and the parties reached an agreement on some issues. The court set a temporary orders hearing for July 17, 2013; exhibits were due five business days before the hearing (July 11).

213. Neither Respondent nor Mr. Simon filed a Notice of Appearance in the case; however, the court endorsed the May 29 minute entry to both of them.

214. On June 7, Mr. Leblance filed a motion to consolidate the case with FC2011-002984, a proceeding DES filed regarding Micah. Mr. Leblance stated in his motion that he mailed or delivered a copy of the motion to Respondent; however, Respondent's file does not contain it.

215. The court granted that motion on June 28, 2013, transferred the case to the judge handling the FC2011 matter, and vacated the July 17 temporary orders hearing date.

216. Respondent and Mr. Simon were not endorsed on the June 28 minute entry and, thus, were unaware that there would not be a hearing on July 17.

217. As the July 11, 2013, exhibit deadline approached Ms. Hampton did not hear from Respondent. Ms. Hampton called Respondent's office on July 10. "Amanda" told Ms. Hampton that Respondent would call her back but did not know when.

218. Ms. Hampton was not happy with the lack of responsiveness or preparation. Ms. Hampton emailed Respondent to withdraw from her case and send her an itemized bill and refund of the unused "retainer."

219. Respondent replied by email that it was not unusual to wait until immediately before a hearing to prepare because until then there is nothing to prepare for.

220. Ms. Hampton repeated her requests on July 11, 18, and 31, 2013.

221. Ms. Hampton arranged for time off from work to attend her July 17, 2013, temporary orders hearing.

222. At 9:00 p.m. on July 16 Respondent emailed Ms. Hampton that the hearing was vacated due to a court mistake in not showing him as attorney of record. This convinced Ms. Hampton that Respondent did not know what was going on.

223. On July 26 Respondent emailed Ms. Hampton that the hearing was reset for August 30, 2013, and that he would send her a withdrawal form.

224. Respondent declined to mail to Ms. Hampton her file, preferring instead that she come to his office to pick it up and sign for it, and to sign the withdrawal form.

225. On July 31, 2013, Ms. Hampton filed this charge with the State Bar.

226. In his screening response Respondent said that he sent Ms. Hampton her file. Ms. Hampton did not receive it.

227. Respondent did not itemize his services and issue a refund.

228. The copy of the file Respondent gave to bar counsel does not contain a bill or itemization (copies of some other files in other cases that Respondent gave to bar counsel do include bills and itemizations).

229. Respondent did not file a motion to withdraw or obtain a withdrawal order.

COUNT THIRTEEN (File No. 13-2278/Borling)

230. Mr. Edwin Borling contacted Respondent's office by telephone in May 2012 regarding a bankruptcy.

231. Mr. Borling talked to a woman named Jennifer Newcomer whom he believed to be a lawyer and office manager. They agreed that Mr. Borling would pay the legal fee of \$1,460 in installments as he could afford them.

232. Mr. Borling did not visit Jennifer or Respondent in an office, did not sign a fee agreement, and was not presented with one.

233. By September 2012, Mr. Boring paid \$1,160. Mr. Borling made all payments by telephone authorization to Jennifer to deduct money from his bank account.

234. In the interim, Mr. Borling did not have Respondent or Jennifer respond to Mr. Borling's creditors' harassment since his understanding was that Respondent's firm would not do anything for him until he paid the total fee.

235. Mr. Borling lost his temporary jobs in Arizona and was unable to get a new one, so he returned to Denver in June 2013.

236. Mr. Borling called Respondent's firm seeking Jennifer but was unable to reach her. A few times he was put on hold for 30 to 45 minutes and no one picked up the phone.

237. Mr. Borling told a receptionist that he wanted a refund and she told him to request it in writing. She also told him that he would be charged \$250. Mr. Borling said OK and sent his letter on June 27, 2013.

238. Mr. Borling made follow-up calls and left messages starting a month later but got nowhere after 7 to 10 tries.

239. Mr. Borling notified the State Bar and A/CAP Counsel intervened in September 2013. Respondent agreed to issue a refund but claimed that he did not receive Mr. Borling's letter and did not have a current address at which to send the refund.

240. Mr. Borling, however, had given Jennifer his address in August 2013 on one occasion that he was able to reach her. She acknowledged that they had received Mr. Borling's letter. Mr. Borling sent it again. Respondent acknowledged receiving it in late September 2013 and told A/CAP Counsel he thought a refund had gone out but would check and let her know by the next week.

241. By mid-October 2013, Mr. Borling had not received a refund.

242. Respondent told A/CAP Counsel he sent a check October 1. A/CAP Counsel asked Respondent for a copy of the check. Respondent did not supply one.

243. By the end of October 2013, Mr. Borling had not received a refund so he sent a written charge to the State Bar. Respondent did not respond to the initial

(November 1, 2013) or extended (December 3, 2013) screening response deadlines.

COUNT FOURTEEN (File no. 13-2394/Campos-Fuller)

244. Complainant Sara Campos-Fuller and Andrew King are the unmarried parents of Kayla who was 12 years old at the time of the underlying events.

245. In October 2011, in Pima County Superior Court, Mr. King *in pro per* filed a petition for paternity, joint legal custody and parenting time, and to pay child support.

246. Ms. Campos-Fuller filed an answer *in pro per* alleging that Mr. King had had no relationship with Kayla for two years, had not contributed to Kayla's upbringing, and that Ms. Campos-Fuller obtained two orders of protection against Mr. King (in 2001 and 2010) due to his abuses.

247. Mr. King retained counsel and in April 2012, Ms. Campos-Fuller hired Respondent for \$2,000 to represent her. The trial was set for September 25, 2012.

248. On September 21, 2012, Respondent filed a motion to withdraw from the representation alleging that Ms. Campos-Fuller fired him.

249. On September 25, 2012, Ms. Campos-Fuller *in pro per* filed a motion to continue that day's trial due to Respondent's firing. She asserted that she was willing to settle the case and tried to get Respondent to understand that but Respondent did not return her calls or emails.

250. Ms. Campos-Fuller did not want to go to trial because she lived with her husband in Fort Hood, Texas, she was in school full time, and travel to Arizona for a trial was a hardship.

251. The parties appeared in court on September 25, 2012. The court referred the case to mediation and continued the trial to January 2013.

252. With Ms. Campos-Fuller's consent, Respondent withdrew his motion to withdraw and remained her counsel of record. The parties and counsel appeared in court in January 2013 and announced that the case settled. One of the settlement terms was that Mr. King agreed to pay Ms. Campos-Fuller monthly child support of \$451.00. The court set a review hearing for August 5, 2013.

253. In April 2013, Mr. King and his counsel filed a petition to hold Ms. Campos-Fuller in contempt for violating a court order to send Kayla to Tucson over spring break to visit with Mr. King. The court set a hearing for June 6, 2013.

254. On May 9, 2013, Respondent accepted service of the petition and order to appear. Respondent did not notify Ms. Campos-Fuller of the hearing date until June 5, 2013.

255. The parties and counsel appeared in court on June 6, 2013, and resolved the contempt issue.

256. On September 27, 2013, Respondent told a State Bar Attorney/Consumer Assistance Program ("A/CAP") counsel, "There has been no contempt petition filed against [Ms. Campos-Fuller] ever."

257. The court ordered counsel for the parties to prepare a stipulation containing the settlement terms and file it by July 8, 2013.

258. On July 16, 2013, Mr. King's counsel filed a notice of Respondent's failure to comply with the order to participate in composing and filing the ordered stipulation. He argued that Respondent failed to respond to his calls and letters.

259. At the August 5, 2013 review hearing, the parties filed a joint legal decision-making agreement and parenting plan, and a stipulated judgment.

260. Respondent did not withdraw as counsel for Ms. Campos-Fuller.

261. In September 2013, Mr. King sought to reduce his monthly child support payment due to his changed financial circumstances.

262. Mr. King's lawyer was unable to reach Respondent so Mr. King sent documents directly to Ms. Campos-Fuller.

263. As to Mr. King's report to Ms. Campos-Fuller that his counsel could not reach Respondent, on September 27, 2013, Respondent told A/CAP counsel that Mr. King "is a pathological liar and [Ms. Campos-Fuller] knows that."

264. Ms. Campos-Fuller was unable to reach Respondent and spoke only with a receptionist.

265. Ms. Campos-Fuller signed a stipulation without Respondent's participation agreeing to reduced support of \$350/mo.

266. Respondent also told A/CAP counsel on September 27, 2013 that it was not true that Mr. King was trying to get his child support decreased. He said, "There's never been a request for a decrease."

267. Respondent did not respond to the State Bar's letters dated November 20 and December 20, 2013 requesting information as part of its screening investigation and he failed to comply with bar counsel's request dated November 20, 2013 that he produce a copy of his case file.

COUNT FIFTEEN (File no. 13-2587/Juliette Bartlett)

268. On February 12, 2012, a crime victim called Scottsdale Police regarding a burglary. She reported that someone stole her purse that contained, among other things, her iPhone. She added that she activated the GPS application on her iPhone and that the GPS coordinates pinpointed Complainant Juliette Bartlett's home. Police confirmed the address and indicated that the GPS program for the iPhone application was "extremely accurate within a couple of feet."

269. The police obtained a search warrant for Ms. Bartlett's home and reached her on her cell phone.

270. Ms. Bartlett was at dinner with her boyfriend and told police no one should be in the house other than her dogs. She said she would be home in an hour but the police told her they would not wait.

271. After confirming through the GPS software that the iPhone was still located in Ms. Bartlett's home, the police entered her home by ramming the front door with a battering ram. They searched Ms. Bartlett's residence inside, outside, and on the roof but did not find the iPhone or any other property reported stolen.

272. It cost Ms. Bartlett \$2,553.00 to repair the door.

273. Over the next several days police harassed Ms. Bartlett on the phone and by appearing at her work. Ms. Bartlett told them repeatedly that she knew nothing of the circumstances surrounding the alleged burglary.

274. At some point later the victim called the police to say that her GPS software pinpointed her phone at Baseline and Southern roads (parallel streets) in Phoenix.

275. On February 29, 2012, Ms. Bartlett hired Respondent for a flat fee of \$750.00 to "draft demand letters and verify search warrant and police reports and evaluate for further action."

276. The first page of the Fee Agreement reads that Respondent would assist Ms. Bartlett "with your ongoing dispute with your landlord regarding your desire to break your lease"

277. The fee agreement also described the fee as "earned upon receipt, and is one half refundable upon request of the client prior to completion of any work on your case."

278. Respondent's fee agreement does not contain ER 1.5(d)(3)-compliant language.

279. Ms. Bartlett's claims against the Scottsdale Police were subject to the government tort claims statutes. To be eligible to sue, a claimant first must file and serve a written notice of claim within six months of the event giving rise to the claim. The claim must contain prescribed information.

280. The lawsuit limitations period for government tort claims is one year.

281. The notice of claim and statutory suit limitation time periods expired, respectively, on August 12, 2012 and February 12, 2013. Respondent never filed a notice of claim or suit for Ms. Bartlett.

282. Respondent never requested a copy of the relevant police reports.

283. Despite Ms. Bartlett's repeated requests for updates, Respondent did not brief her on the status of her matter.

284. On January 22, 2013, a different attorney whom Ms. Bartlett consulted emailed Respondent and asked him to update Ms. Bartlett. The attorney asked Respondent if he filed a Notice of Claim and if he was aware of the approaching lawsuit time-bar date. Respondent did not respond to that attorney.

285. Ms. Bartlett met with Respondent on February 8, 2013 but he could not find her file or provide any information about her case. Since February 8, 2013, Ms. Bartlett has not been able to reach Respondent.

286. Respondent did not respond to the State Bar's letters dated November 1 and December 3, 2013, requesting information as part of its screening investigation.

287. Respondent failed to produce a copy of his file to the State Bar as requested on November 1, 2013 as part of its investigation.

COUNT SIXTEEN (File no. 14-0149/Fay Day)

288. In January 2012, Complainant Fay Day found Respondent through a Craigslist ad and met him to discuss representing her in a family law case.

289. Ms. Day wanted to enforce provisions of her 2004 divorce decree that required her ex-husband, Ricky, to share profits from his portable shower invention, pay a \$2,125 equalization payment, and assign to Ms. Day an interest in his 401k account with Wal-Mart.

290. Ms. Day also wanted to increase spousal support and extend it beyond April 2013 (the cutoff date established by earlier orders).

291. Respondent quoted Ms. Day a \$1,200 fee and told her that he would start the case when she paid at least \$900.00. That was the last time Respondent talked to Ms. Day.

292. In May 2012, Ms. Day paid the full \$1,200, met with Respondent's paralegal, and gave the paralegal all requested documents.

293. Respondent did not communicate to Ms. Day in writing the scope of the representation and basis for fees and expenses.

294. Respondent did not enter his appearance or file a Petition to Modify Spousal Support until January 2013, in Maricopa County Superior Court no. FN2004-001250, *In re the Matter of Ricky Wayne Day and Fay Day*.

295. Ricky's attorney filed a Motion to Dismiss asserting that Respondent's petition did not comply procedurally with applicable rules (it lacked a statement of changed financial circumstances, and a financial affidavit), and because Ricky was not properly served.

296. Respondent sent an associate to the March 2013 hearing on the petition. The associate was late and unprepared.

297. The judge believed that Ms. Day did not want to modify support but, instead, wanted to enforce the 2004 decree. He gave Ms. Day ten days to file an amended petition setting forth her claims and deferred ruling on Ricky's Motion to Dismiss.

298. The associate told Ms. Day to follow up with Respondent. Ms. Day tried to reach Respondent during the rest of March and half of April but was only able to

leave messages, none of which was returned. Respondent's paralegal was unable to explain to Ms. Day what steps the court required Ms. Day to take next.

299. In mid-April 2013, Ms. Day fired Respondent and retained James Leather. The court granted Ms. Day and Mr. Leather's motion for substitution and, on April 22, 2013, Mr. Leather filed an amended petition for Ms. Day.

300. In the amended petition, Mr. Leather stated claims relating back to the 2004 divorce decree and reiterated Ms. Day's request for increased spousal support but in a manner that complied with procedural requirements.

301. Ricky filed an amended Motion to Dismiss. After a full briefing, the court dismissed Ms. Day's \$2,125.00 equalization claim but denied Ricky's motion in all other respects. It set an evidentiary hearing for September 2013.

302. After the September hearing, the judge awarded increased support from \$510 to \$1,570 per month for all months after the petition for modification was filed, until the expiration date of the original support order.

303. Since Respondent did not file the petition until January 2013, and the original support order expired in April, this gained Ms. Day only three months of increased support payments, or \$3,180.00.

304. Had Respondent timely filed the petition in May 2012, Ms. Day would have been awarded 11 months' worth of increased support (\$11,660), representing a loss of \$8,480.00.

305. The court also extended Ms. Day's support award for three years at \$350/mo., and awarded her support arrearages from 2005 of \$10,700 plus interest.

306. The judge decided that the shower head invention was worthless but ordered the parties to enter into a QDRO with Ricky to pay 80% of the cost of creating it.

307. The court awarded Ms. Day attorney's fees and costs of \$8,160.

308. After firing Respondent, Ms. Day persistently called his office in 2013 and 2014 seeking a refund of her \$1,200.

309. In June 2013, Respondent's assistant told Ms. Day to expect a refund check imminently but no check arrived.

310. In October 2013, Mr. Leather wrote a demand to Respondent to refund to Ms. Day her \$1,200 but did not receive a response.

311. Respondent did not respond to the State Bar's letter dated February 21, 2014 requesting information as part of its screening investigation, or produce a copy of his file as requested in that same letter.

COUNT SEVENTEEN (File no. 14-0232/Matthew Potter)

312. In Pima County Superior Court, Complainant Matthew Potter filed for divorce *in pro per*. Mr. Potter's ex-wife Kara appeared through counsel, Lisa McNorton, so in April 2013 he retained Respondent for \$2,500.

313. Respondent did not serve a copy of his Notice of Appearance on Ms. McNorton or later provide her a copy after multiple requests.

314. Respondent and Mr. Potter failed to respond to interrogatories and a request for production so Ms. McNorton filed a Motion to Compel Discovery and for attorney's fees in June 2013.

315. Respondent did not file a response to Ms. McNorton's motion. The court granted the motion, ordered Respondent and Mr. Potter to serve proper answers by August 12, 2013, and reserved judgment on attorney's fees until final determination of the case.

316. On August 15, Ms. McNorton filed a Notice of Non-Compliance with the discovery order, asserting that Respondent's answers were inadequate. The court did not act on this notice. On August 29, 2013, it issued an order directing that the parties attend a settlement conference on September 30, and a pretrial conference on October 16 at 10:30 a.m.

317. On September 25, Ms. McNorton filed a motion to permit Kara to attend the September 30 settlement conference by phone. The court granted the motion the next day. Copies of the motion and order granting the motion were served on Respondent.

318. The September 30, 2013 settlement conference began at 1:30 p.m. Kara appeared by phone and Ms. McNorton appeared in person. Neither Mr. Potter nor Respondent appeared.

319. The settlement conference judge *pro tem* contacted Respondent's office and learned that the settlement conference was not on Respondent's calendar. The judge *pro tem* referred the matter back to the assigned judge to consider sanctions. He also ordered Respondent to file a mandatory Inventory of Property, the deadline for which already had passed on September 16, 2013.

320. At 5:48 p.m. on September 30, 2013, Respondent filed a motion to allow Mr. Potter to appear by phone for the already conducted (and missed)

September 30 settlement conference. The certificate of service shows that Respondent purportedly filed and served the motion on September 26, 2013. The court's file-date stamp, as noted above, shows otherwise.

321. On October 16, 2013, by 10:44 a.m., Respondent was not present in court for the 10:30 a.m. pretrial conference. Mr. Potter and Kara were present by phone and Ms. McNorton was present in person. The court discussed the situation and other scheduling matters and then noted at 10:51 a.m. that Respondent appeared (21 minutes late). The court continued the pretrial conference to December 9, 2013.

322. At a resumed settlement conference on November 8, 2013, the case settled.

323. Kara wanted \$1,000 in attorney's fees for discovery failures and no-shows. Respondent initially agreed to pay that sum but later changed his mind and agreed to pay only if ordered to do so by a court. The settlement agreement states that Mr. Potter agreed to pay Kara \$1,000 in attorney's fees but does not attribute the expense to any particular litigation episode. Respondent deliberately phrased the agreement in such a manner as to eliminate his own possible liability for the assessment.

324. Mr. Potter tried to communicate with Respondent through text messages but Respondent chronically failed to respond to his questions. Mr. Potter told Respondent that he would report Respondent to the State Bar if Respondent continued to ignore him. There was a brief period after Mr. Potter threatened a bar

charge during which Respondent was responsive. Thereafter, however, Respondent again failed to respond to Mr. Potter's efforts to communicate.

325. Respondent failed to respond to the State Bar's letter dated February 21, 2014 seeking information from Respondent as part of its screening investigation, or to provide a copy of his client file as requested in that same letter.

COUNT EIGHTEEN (File no. 14-0431/Angela Murrieta)

326. Complainant Angela Murrieta contacted Respondent's office about filing a Chapter 13 bankruptcy case.

327. Ms. Murrieta agreed to pay a \$4,000 flat fee for Respondent to represent her and her husband, \$2,000 of which was payable in advance before Respondent would begin the case. Ms. Murrieta paid Respondent \$2,000 on January 31, 2011.

328. From February-April, 2011, Respondent failed to respond to Ms. Murrieta's calls and emails that she was unable to register for the online financial course.

329. In February 2011, Ms. Murrieta sent Respondent all financial documents he requested.

330. From February-April, 2011, Respondent failed to inventory the documents he received from Ms. Murrieta to determine that they were complete.

331. In April 2011, Respondent told Ms. Murrieta that he was unable to locate the documents thereby requiring that she resend them.

332. Respondent also told Ms. Murrieta to send more documents dating back another six months, the need for which he would already have determined had he diligently followed up with her earlier.

333. Through May 2011, Ms. Murrieta was mainly able to communicate with Respondent's employees only, and they told her to send documents she already had sent.

334. Respondent's employees also told Ms. Murrieta to sign and return the Chapter 7 fee agreement, which persuaded her that Respondent and his employees had her confused with a different client.

335. Through June 2011, Respondent failed to file a Chapter 13 petition. While Ms. Murrieta waited for Respondent to file her bankruptcy petition, a creditor sued Ms. Murrieta and later obtained a judgment.

336. In July 2011, Respondent told Ms. Murrieta he would file the petition in August. In August, Respondent told Ms. Murrieta he was waiting to see if she would qualify for treatment under Chapter 7. Respondent and Ms. Murrieta earlier had agreed that filing a Chapter 13 petition was the only bankruptcy filing that would serve her interests, so Respondent's statement only furthered Ms. Murrieta's suspicions that he confused her with someone else.

337. Also in August 2011, Respondent asked Ms. Murrieta for paycheck stubs from June-August. Complainant sent them.

338. In late August or early September 2011, Respondent emailed to Ms. Murrieta a finalized Chapter 13 petition but he did not file it.

339. In September, Respondent asked Ms. Murrieta to send the same paycheck stubs she sent the previous month.

340. On September 30, 2011, Respondent finally filed the Chapter 13 petition.

341. Respondent filed a plan in October 2011 that called for monthly payments to the trustee of \$1,730.

342. From August-November 2012, Ms. Murrieta's income dropped due to a work injury. Also, Ms. Murrieta's husband was out of work.

343. Ms. Murrieta asked Respondent to file a motion seeking lower monthly payments. Respondent asked for and obtained from Ms. Murrieta her paycheck stubs but delayed filing the motion. When Ms. Murrieta insisted that Respondent file the motion, he asked her for copies of the same items she already had sent to him.

344. In September 2012, the trustee filed a Notice of Intent to Dismiss for Failure to Confirm a Plan. In November 2012, the trustee filed a Motion to Dismiss for Failure to pay Arrearages of \$4,190.00.

345. On November 30, 2012, Respondent filed an amended plan with reduced monthly payments. Ms. Murrieta paid the arrearage so the trustee withdrew his motion to dismiss.

346. In September 2013, the trustee filed a Notice of Intent to Dismiss for Failure to Confirm a Plan, this time referring to the amended plan. Ms. Murrieta tried to contact Respondent about this but he did not respond. Respondent's assistant told Ms. Murrieta that Respondent was aware of the situation and would take care of it.

347. On January 28, 2014, the trustee filed a Notice of Lodging Order Dismissing Case for failure to confirm a plan. On January 30, the court signed an order of dismissal. On Friday, January 31, 2014, Ms. Murrieta, livid, called Respondent and demanded an explanation.

348. Respondent told Ms. Murrieta he would fix the situation on Monday, February 3. Respondent did not communicate with Ms. Murrieta on Monday, February 3, so on Tuesday she emailed and asked Respondent if he fixed the problem on Monday, as promised. Ms. Murrieta did not receive a response from Respondent to that email, any of her twice daily phone calls for the rest of the week, or ever since.

349. Ms. Murrieta hired a new attorney.

350. On January 31, 2014, the trustee filed an Application for Fees and Expenses. He claimed that he collected from Ms. Murrieta \$31,375 during the pendency of the case. After payment of his fees and creditor claims, there remained \$25,325.60 to refund to her.

351. Respondent did not file a response to the trustee's motion. On February 18, 2014, the court approved the trustee's application and, on May 1, 2014, closed the case.

352. In February 2014 Ms. Murrieta submitted a charge against Respondent to the State Bar. Respondent did not respond to the State Bar's letter dated February 21, 2014, requesting information as part of its screening investigation. The letter included a request that Respondent produce a copy of his client file including all emails.

COUNT NINETEEN (File no. 14-0451/Cindy Krah)

353. In June 2013, Complainant Cindy Krah contacted Respondent's office for an advertised "free consultation" about having Respondent represent her daughter Katrina in a divorce with child custody case.

354. Ms. Krah ended up meeting with a paralegal, not Respondent, something that was not included in the ad.

355. Ms. Krah paid Respondent a \$3,500 "retainer."

356. The paralegal drafted temporary orders documents that were wrong and remained wrong even after Ms. Krah told her about needed corrections.

357. The paralegal included Katrina's address in the petition, contrary to Ms. Krah's instructions to keep Katrina's address confidential over fear of harassment from the husband.

358. The petition incorrectly referred to Katrina, the Complainant in the case, as the Respondent.

359. After Respondent filed the Motion for Temporary Orders in Maricopa County Superior Court, the husband's lawyer entered an appearance.

360. The court set a Resolution Management Conference ("RMC") for August 30, 2013 and ordered Respondent to serve a copy of that order by mail to any party that already appeared in the case.

361. Respondent's paralegal assured Ms. Krah that the court would schedule the case for a west Phoenix location where Katrina lives so that she would not have to travel to Mesa for meetings and court appearances.

362. However, Katrina's case was assigned to the Southeast Judicial District. She and Ms. Krah each took off three hours of work to travel across town to meet with Respondent prior to the August 30 hearing.

363. At the meeting Respondent was not focused on Katrina's case and talked about his other cases.

364. Ms. Krah, Katrina, and Respondent appeared in court on August 30, 2013, but the husband and his counsel did not appear.

365. The court vacated the RMC because there was no proof that Respondent had served the husband or his counsel with notice of the hearing, as the court previously directed.

366. The court set a temporary orders hearing for November 4, 2013. The husband's attorney had a conflict with the November date and tried to reach Respondent about agreeing to a rescheduled date. Respondent did not respond to the husband's attorney's request so the latter had to file a notice of conflict and motion to continue.

367. The court reset the matter to October 21, 2013, at 1:00 p.m. On October 21 at 11:00 a.m., Respondent emailed Ms. Krah and Katrina and asked if they could meet him at noon. Ms. Krah and Katrina scrambled to rearrange schedules in order to meet Respondent on short notice but were willing to do so because they had so many unanswered questions about the case due to Respondent's earlier failure to respond to them.

368. Respondent was a half hour late to the meeting that he requested and scheduled.

369. At the October 21 hearing, the parties reached agreements on several topics. Among them was that the husband had to undergo weekly drug tests and to be breath tested before and after his parenting times. A trial was set for February 18, 2014, at 2:00 p.m.

370. On November 21, 2013, the husband tested positive for ethyl glucuronide. One can test positive for that chemical from drinking alcohol and from using non-alcoholic beverages including mouthwash and topical medicines. Respondent did not tell Ms. Krah or Katrina the results of the husband's alcohol test.

371. While awaiting trial, the husband violated the temporary orders. Respondent filed a Motion to Modify Temporary Orders and to hold Respondent in contempt. The court set an RMC on that motion for February 12, 2014. On February 11, the parties stipulated to vacate the RMC because most issues were resolved and the balance of the issues could be resolved at the trial seven days later.

372. On February 18, at 1:27 p.m., a half-hour prior to trial, Respondent filed his Pretrial Memorandum. Respondent did not give a copy to Ms. Krah or Katrina and they did not have a chance to review it in advance.

373. Respondent included a request for 1.5 months of child support arrears (\$1,035) but did not argue the point at trial. The court did not address that subject in its decision.

374. Ms. Krah demanded that Respondent reduce some of his charges. Respondent did reduce some of his charges but still overcharged for his paralegal's

time preparing documents that were wrong, and given that his incompetence cost Ms. Krah and Katrina time from work that resulted in some lost income.

375. In March 2014 Ms. Krah submitted a charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's screening investigation letter dated March 25, 2014. He also failed to furnish a copy of his case file as requested in the same letter.

COUNT TWENTY (File no. 14-0470/Ken Griffin)

376. On April 26, 2012, Complainant Ken Griffin was arrested for DUI and three related offenses. He was prosecuted in Scottsdale City Court. In May 2012, Mr. Griffin hired Respondent to represent him and paid him attorney's fees of \$3,000.00.

377. In August 2012 the prosecutor offered Mr. Griffin a plea offer that included probation if Mr. Griffin completed an alcohol screening program. Mr. Griffin resides in Illinois so it was necessary to determine if it was possible for him to enter a guilty plea by mail and comply with probationary requirements in Illinois.

378. Early in the proceedings Respondent's associate attorney participated in a pretrial telephonic conference with the court, prosecutor, and Mr. Griffin. Mr. Griffin learned that it was permissible to resolve his case from out-of-state by a mailed plea. Thereafter, however, and through the balance of the representation neither Respondent nor anyone associated with him told Mr. Griffin how to document to the court his compliance with a plea. This was despite Mr. Griffin's continual requests for guidance from Respondent or his employees, both by telephone and email.

379. In December 2012, Mr. Griffin and Respondent accepted the state's plea offer. They signed and filed a "Plea Agreement Mail/Telephonic 1st Offense DUI" by

which Mr. Griffin pled guilty to DUI, a Class 1 misdemeanor. He had to attend alcohol abuse screening in Illinois and pay various costs and fines. Upon completion of those items he was to serve ten days in jail with nine days suspended, and with credit for the remaining one day already served following his arrest. Completion of sentencing was set for April 13, 2013.

380. Mr. Griffin completed the alcohol screening program in Illinois and paid all costs and fines. He sent proof of his compliance to Respondent by Fed Ex. Respondent, however, did not file proof of Mr. Griffin's compliance with the terms of his plea with the court. The court set the case for trial on April 16, 2013.

381. On April 10, 2013, Respondent filed a "Motion to Vacate Trial and Set for Telephonic Plea." He contended that Mr. Griffin's case "was on track for a telephonic plea, and at some point fell off of that calendar." He blamed FedEx for losing Mr. Griffin's compliance documents and stated he was unsure whether his office staff failed to calendar follow-up dates after Respondent filed a motion to continue a prior telephonic pretrial conference. He asked the court not to punish Mr. Griffin "for the errors in procedure in this matter, as, if anything they are the fault of Counsel's staff."

382. On April 12, 2013, the judge accepted Mr. Griffin's plea and gave him to August 12, 2013, to file proof that he completed the Illinois alcohol screening program.

383. Respondent again failed to file Mr. Griffin's proof that he completed the alcohol program. On August 19, 2013, the court issued to Mr. Griffin a summons for order to show cause on September 6 and, later, on December 6, 2013 for failing to

complete the program. Respondent still did not file Mr. Griffin's proof of completion of the alcohol program so the court issued a warrant to arrest Mr. Griffin.

384. Mr. Griffin learned of the warrant and contacted Respondent's assistant. He told her that he planned to travel over the winter holiday and was concerned that the warrant would alert TSA and Immigration at airports and create problems for him. The assistant assured Mr. Griffin that Respondent would resolve the matter.

385. Over the winter holiday, Mr. Griffin was pulled out of line for screening in the presence of his family and taken into custody for questioning. His daughter-in-law, an attorney, was with him at the time and procured his release—otherwise, he likely would have been jailed.

386. In February 2014, Mr. Griffin wrote a letter directly to the judge in his DUI case. He recounted the problems he'd experienced with Respondent, and furnished documentary evidence that he had paid all fines, attended an alcohol evaluation in Illinois, completed a DUI Risk Education, and did community service. In March 2014, the judge issued an order vacating the arrest warrant, stating "defendant has satisfied the requirements of the warrant and the requirements of responsibility for the [DUI] charges noted above."

387. On February 18, 2014 Mr. Griffin submitted a charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's screening investigation letter dated February 21, 2014. He also failed to furnish a copy of his case file as requested in the same letter.

COUNT TWENTY-ONE (File no. 14-0586/Melissa Garcia)

388. Complainant Melissa Garcia divorced her husband; attorney Gil Shaw represented her.

389. Ms. Garcia and her ex-husband entered into a property division agreement that they incorporated into a divorce decree. In combination the documents called for the ex-husband to pay an equalization payment, support, and a \$45,000 loan obtained from Ms. Garcia's parents to finance the deposit on the divorced parties' home. The ex-husband also was responsible for the mortgage on the home.

390. The ex-husband failed to pay any of the items so in February 2013 Ms. Garcia, *in pro per*, filed a petition to enforce the obligations. The ex-husband retained counsel and filed counter-petitions that postponed a hearing on Ms. Garcia's petition.

391. Ms. Garcia retained Respondent in July 2013 for a flat fee of \$2,000 but did not actually meet him until October 2013.

392. In August Ms. Garcia learned that the home in which she had a community property interest was in foreclosure. Ms. Garcia asked Respondent to file an emergency petition to enforce the husband's duty to pay the mortgage. He did so. The court scheduled a telephonic scheduling hearing at which only counsel appeared, and denied the emergency request.

393. Ms. Garcia and Respondent met in October 2013. The court moved the hearing to November. They agreed to meet an hour before the hearing but Respondent showed up only ten minutes beforehand.

394. Respondent was unfamiliar with the case, asked incorrect questions, cut Ms. Garcia off during her testimony, prevented her from telling her story to the judge, fumbled for documents he could not find, and mumbled a lot. The judge kept having to stop Respondent and ask him to keep up and talk louder.

395. The court awarded to Ms. Garcia everything she asked for except for her request to make the husband pay off the \$45,000 loan obtained from her parents. Respondent did not alert the judge to the provision in the property settlement and divorce decree that obligated the husband to make that payment.

396. The court also awarded to Ms. Garcia all of her \$2,000 in attorney's fees.

397. The ex-husband's counsel filed a Motion for Reconsideration. The court gave Respondent to February 18, 2014 by which to file a response.

398. Respondent did not file an Objection to Motion for Reconsideration until February 27, 2014. However, he dated it February 18, 2014, and certified that the original was filed and copies were delivered to the court and opposing counsel the same day.

399. By February 18, 2014, it did not appear to Ms. Garcia that Respondent would file a timely response to the Motion for Reconsideration. On that date she filed a hand-written motion to extend the time to respond to the ex-husband's motion.

400. The court did not review Ms. Garcia's motion until March 7, 2014, by which time she saw Respondent's February 27 response. She deemed Ms. Garcia's

motion moot. In a later order she granted the Motion for Reconsideration in part, to correct her erroneous support arrearage calculation.

401. Respondent did not produce a copy of his client file as requested by bar counsel in a letter dated March 3, 2014.

COUNT TWENTY-TWO (File no. 14-0593/Ronald Uthe)

402. Complainant Ronald Uthe hired Respondent in August 2011 and paid him \$1,800.00, to represent him in a bankruptcy case. Respondent asked Mr. Uthe for all necessary documentation and Mr. Uthe provided it. In subsequent conversations Respondent told Mr. Uthe that "everything was going great."

403. Over the ensuing several months, Respondent several times asked Mr. Uthe to provide more recent bank statements and pay stubs. Mr. Uthe complied.

404. After several more months Respondent told Mr. Uthe that other attorneys in Respondent's office would handle the case, and that Mr. Uthe should change from a Chapter 7 to a Chapter 13 case.

405. After several more months, and 10-15 messages and emails from Mr. Uthe, Respondent sent Mr. Uthe an email stating that his receptionist never gave him any of Mr. Uthe's messages.

406. In November 2013, Toyota served Mr. Uthe with a summons. Mr. Uthe told Respondent about it and Respondent said he would take care of it. Mr. Uthe gave the summons and related file materials to Respondent. Respondent did not handle Mr. Uthe's Toyota matter as promised, resulting in a judgment against Mr. Uthe.

407. After many more messages and emails to which Respondent did not respond, in February 2014 Mr. Uthe fired Respondent and asked for his money back, and for his file. Respondent did not respond to that request, either.

408. On February 19, 2014, Mr. Uthe went to Respondent's office to ask for his money back and Respondent screamed at him to "get the f[xx]k out of here." Respondent called the police and alleged that Mr. Uthe was harassing him.

409. Neither Respondent nor any attorney in his office filed any bankruptcy case for Mr. Uthe.

410. Respondent has not refunded any portion of the fee Mr. Uthe paid him. After Mr. Uthe called the State Bar and A/CAP counsel intervened, someone at Respondent's office told A/CAP counsel that they would mail Mr. Uthe his file.

411. In February 2014 Mr. Uthe submitted a charge against Respondent to the State Bar. Respondent did not respond to the State Bar's screening investigation and reminder letters dated, respectively, February 25 and April 2, 2014. He also did not furnish a copy of his client file as requested.

COUNT TWENTY-THREE (File no. 14-1190/Kimberly Smith)

412. On December 13, 2013, Complainant Kim Smith retained Respondent to represent her in her family court matter. She paid Respondent attorney's fees of \$3,000.00.

413. From the inception of the representation, all of Ms. Smith's communications with Respondent's office were through Respondent's assistant. Respondent did not discuss Ms. Smith's case with Ms. Smith.

414. The parties scheduled a Resolution Management Conference (“RMC”) for March 19, 2014, at 9:30 a.m. Respondent’s RMC statement contained many errors and included some provisions that applied to an altogether different case.

415. Ms. Smith and Respondent’s assistant arranged for Ms. Smith to meet Respondent in court an hour prior to the RMC. This was to be the first time Ms. Smith actually met and spoke with Respondent. However, Respondent arrived late for the meeting and the RMC, which delayed the start of the RMC to 9:45 a.m.

416. Respondent knew nothing of Ms. Smith’s case, was unprepared, did not bring a case file, did not prepare a child support worksheet, and was unaware of the domestic violence Ms. Smith suffered. He asked opposing counsel if there was Wi-Fi available since that was the only way he was able to access his schedule.

417. After the RMC Respondent for the first time discussed Ms. Smith’s case with her. He was supposed to contact opposing counsel to schedule a meeting to discuss settlement. Ms. Smith called Respondent’s office several times thereafter and left messages for Respondent’s assistant, none of which was returned by her or Respondent.

418. Ms. Smith terminated Respondent’s services and he filed a motion to withdraw on April 28, 2014. The court granted the motion, Ms. Smith hired new counsel, and the case settled shortly thereafter.

419. On April 3, 2014, Ms. Smith sent a letter to Respondent demanding a refund of her \$3,000.00. She forwarded a written charge to the State Bar against Respondent on April 16, 2014. Respondent failed to respond to the State Bar’s

screening investigation letters dated April 30 and May 29, 2014. He also failed to furnish a copy of his case file as requested in the same letters.

420. In May or June 2014, Respondent refunded to Ms. Smith \$400.00.

COUNT TWENTY-FOUR (File no. 14-1313/Laverne McCabe)

421. In May 2013, Complainant Laverne McCabe called Respondent's office for a free consultation about filing a Chapter 13 case to save her home. Ms. McCabe paid Respondent's firm \$841.00 by phone and sent to his office documents needed to save her home. Ms. McCabe took all steps required of her and set up a Chapter 13 payment plan.

422. Respondent's associate, Jon Simon, filed Ms. McCabe's Chapter 13 case on May 29, 2013. On May 30, the court issued a deficient filing notice advising that the case would be dismissed unless four deficiencies were cured. The deficiencies were not cured and on June 18, 2013, the court dismissed the case. According to the trustee's final report, Ms. McCabe paid no money into a plan and the trustee disbursed no funds to anyone.

423. On August 22, 2013, Respondent's office filed a new Chapter 13 petition. It bears Mr. Simon's electronic signature; however, all subsequent court notices were directed to Respondent.

424. On August 23 the court issued a deficiency notice similar to the one issued in the first case.

425. On September 6, 2013, Mr. Simon filed various schedules and a plan. He requested \$3,659.00 in unpaid attorney fees.

426. On September 13 the court dismissed the case for failure to file a credit counseling certificate. On October 17, Respondent filed the credit counseling certificate showing that Ms. McCabe received the counseling on May 29, 2013, in connection with her first bankruptcy case filing.

427. Also on October 17, Respondent filed a Motion to Vacate Order of Dismissal and Reinstate Case in which he erroneously identified Ms. McCabe's matter as a Chapter 7 case. The court reinstated the case on October 18, 2013.

428. In October 2013 Ms. McCabe received a court document threatening to dismiss her case if she did not satisfy a certain condition. She did not understand this, called Respondent, spoke to an assistant, and was told to FAX the document and not worry.

429. In November and December 2013, a Green Tree Servicing LLC agent went to Ms. McCabe's home threatening to evict her and have her arrested for trespassing if she did not vacate within three hours.

430. Each time a Green Tree Servicing LLC agent went to Ms. McCabe's home threatening to evict her and have her arrested for trespassing if she did not vacate within three hours, Ms. McCabe called Respondent.

431. For reasons unknown, Green Tree relented.

432. On December 2, 2013, Respondent filed a Notice of Limited Appearance and 2016(B) Statement. The document gave notice that for \$75.00 an attorney unaffiliated with Respondent's firm would handle the Meeting of Creditors, "and all future notices, pleadings, and correspondence shall be mailed to Parker Evan Bornmann" at Respondent's address.

433. On January 7, 2014, the trustee filed his evaluation and recommendations with notice of potential dismissal if certain conditions were not satisfied. He listed seven unfulfilled conditions including Ms. McCabe's delinquent plan payments that would prompt him to object to confirmation of the Chapter 13 plan if not satisfied.

434. On January 9, the law firm Tiffany & Bosco filed a Motion for Relief from the Automatic Stay on behalf of creditor Green Tree Servicing LLC, servicer of the company that provided financing for Ms. McCabe's home.

435. In its motion, Tiffany & Bosco alleged that Ms. McCabe missed five monthly payments totaling about \$2,000. It asked for leave to foreclose on Ms. McCabe's home and for \$2,823.05 in deficiency payments, attorney's fees and filing costs.

436. Tiffany & Bosco mailed a copy of the motion to Ms. McCabe and Respondent. In January 2014, Ms. McCabe received the Motion to Lift Stay from Tiffany and Bosco. Ms. McCabe called Respondent but neither he nor any of the assistants with whom Ms. McCabe previously spoke was available.

437. An assistant in Respondent's office called Ms. McCabe back and told her to FAX the document to their office. The assistant later told Ms. McCabe that she was two months behind on her plan payments, totaling \$1,010. The assistant told Ms. McCabe to bring her payments current, Respondent would resubmit the case, and everything would be fine.

438. On January 28, 2014, Tiffany & Bosco filed a Certificate of Service and No Objection, certifying that it served Ms. McCabe and Respondent with the Motion

for Relief from the Automatic Stay, and notice thereof, and received no objection from either. The court granted the motion on January 29 and electronically served the order and Notice of Entry of Judgment on Respondent.

439. On February 13, 2014, the trustee lodged a form of order dismissing the case due to Ms. McCabe's and Respondent's failure to cure the unfulfilled conditions itemized in the trustee's January filing. He mailed it to Respondent and Ms. McCabe. The court signed the order on February 24 and sent notice of the electronic filing to Respondent.

440. In March, Ms. McCabe paid the \$1,010 that Respondent's assistant told her to pay and then had to leave messages for Respondent and his assistant seeking assurance that her case was back on track.

441. In April 2014, the trustee sent Ms. McCabe a refund check for \$1,100. Ms. McCabe left a message for Respondent and three days later received a call back from an assistant telling her to call the trustee to determine why he sent her a refund.

442. Ms. McCabe called and learned from the trustee's assistant that her case was closed in February 2014 because her attorney did not submit certain required paperwork. The trustee's assistant told Ms. McCabe to tell her lawyer to resubmit the case and not to call the trustee anymore.

443. From April 17-23, 2014, Ms. McCabe called Respondent and his assistants but was unable to reach any of them. Ms. McCabe then called the trustee to determine if Respondent had reopened her case. Upon learning that Respondent had not taken steps to reopen her case, Ms. McCabe cried and told the trustee's

assistant that she would have to cash the check for rent money. Ms. McCabe and her children moved out of their home on April 30, 2014.

444. The trustee filed his final report on June 25, 2014. Ms. McCabe paid \$1,160 and was refunded that entire amount. She paid Respondent \$841.00. The trustee allowed several claims, including Respondent's claim for \$4,500 in attorney's fees, but he made no distributions because he refunded to Ms. McCabe her \$1,160 in plan payments.

445. Respondent did not respond to the State Bar's screening letters of May 16 and June 18, 2014, nor did he produce a copy of his file as requested.

COUNT TWENTY-FIVE (File no. 14-1314/Orlando & Tina Diaz)

446. In March 2013 Complainants hired Respondent to represent them in connection with a Chapter 7 bankruptcy matter. They paid Respondent's fee of \$1,881.00 for the representation.

447. Complainants attended the initial meeting of creditors in June 2013. They were advised that the only impediment to obtaining their discharge in bankruptcy was to file proof that they attended the online financial counseling course. Complainants took the course and in approximately June or July 2013 furnished Respondent with the certificates of completion.

448. Complainants received no information from Respondent regarding the progress of their bankruptcy matter. However, on October 29, 2013, they received an order from the bankruptcy court dismissing their case. Upon further investigation, Complainants learned that a deadline to convert their Chapter 7

petition to a Chapter 13 petition had passed, and that the bankruptcy trustee deemed their initial petition deficient and inaccurate.

449. Respondent failed to communicate to Complainants the deficiencies in their bankruptcy petition, that they could have converted to a Chapter 13, or that there was a deadline to convert to a Chapter 13.

450. In April 2014 Complainant submitted a charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's letter dated May 8, 2014 in which it requested information from Respondent as part of its screening investigation, and in which it requested that Respondent produce a copy of his client file.

COUNT TWENTY-SIX (File no. 14-1726/Denise Ramirez)

451. In October 2013, Complainant Denise Ramirez retained Respondent to represent her in a family court matter involving child custody. She paid Respondent \$2,500.

452. When Respondent filed a Notice of Appearance in the Pinal County Superior Court litigation there was already pending an imminent court hearing on the opposing party's contempt petition. Respondent obtained a postponement of the hearing due to a calendar conflict but did not inform Ms. Ramirez. Therefore, she traveled to court for the hearing only to discover that it would not occur.

453. On January 8, 2014, Respondent signed a Notice of Withdrawal as counsel for Ms. Ramirez on the ground that he had completed the representation. Although he stated that he filed that document "this date," he did not actually file it until January 23, 2014.

454. Respondent failed to appear for a court hearing on January 9, 2014. The parties and opposing counsel were present at that hearing.

455. On January 28, 2014, the court entered its order granting Respondent's withdrawal as counsel of record for Ms. Ramirez.

456. Respondent did not inform Ms. Ramirez that he deemed the representation completed or that he withdrew from her representation. Ms. Ramirez appeared for a court hearing on March 11, 2014, as did the opposing party and counsel, but Respondent did not appear. The court assessed attorney's fees against Ms. Ramirez in the sum of \$625.00.

457. Throughout the representation Ms. Ramirez contacted Respondent's office seeking information and to discuss her legal matter with Respondent. On most occasions she was able to speak only with assistants who told her that Respondent would contact her, but he did not do so.

458. In May 2014, Ms. Ramirez contacted Respondent's office and sought a refund. Respondent billed Ms. Ramirez gross charges of \$2,563.50 for the representation, including for activities after January 28, 2014. He claimed that she owed him \$63.50. The charges for activities after January 28, 2014 total \$663.00, meaning Respondent's maximum legitimate charges for the representation before he withdrew were \$1,900.50. Respondent owes Ms. Ramirez a fee refund of at least \$559.50.

459. In July 2014 Ms. Ramirez submitted a charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's letters dated July 11 and August 7, 2014, in which it requested information from Respondent as part of

its screening investigation, and in which it requested that Respondent produce a copy of his client file.

COUNT TWENTY-SEVEN (File no. 14-1828/Emily Lance)

460. In June 2013, Complainant Emily Lance retained Respondent's firm to represent her in connection with a family law matter, with children. However, she never met Respondent. All of her contact and communications were with Respondent's assistants.

461. Respondent's assistant Amanda told Ms. Lance that Respondent would send Ms. Lance a monthly invoice detailing the activities he performed in her case. However, Ms. Lance never received an invoice.

462. Amanda also told Ms. Lance that Respondent would call periodically to update her on her case. However, over the course of the representation through August 2014, Respondent did not ever call Ms. Lance. When Ms. Lance called Respondent to discuss her case she was only able to reach assistants who promised that Respondent would call back; however, he never did.

463. In August 2013, Respondent filed a Petition for Dissolution of Marriage and a Motion for Temporary Orders. He did not, however, immediately obtain a hearing on the Motion for Temporary Orders. Respondent's assistants told Ms. Lance that the judge was to blame for the delay in obtaining a hearing.

464. In January 2014 Ms. Lance called the court and learned that the reason the court had not set a hearing on the Motion for Temporary Orders was that Respondent merely faxed to the court a request for a hearing but did not file originals. Ms. Lance called Respondent's office and told this to Amanda. Amanda

agreed to file originals but the court still did not set a hearing because by then the financial affidavit that Ms. Lance filed earlier in the case was obsolete. Thereafter Ms. Lance stayed in regular contact with court staff to ascertain that Respondent filed necessary documents and followed applicable procedures.

465. Neither Respondent nor any of his employees told Ms. Lance that she needed to establish a Clearinghouse account to collect child support payments. This delayed her receipt of support payments for two months.

466. Respondent did not obtain a protective order or otherwise file documents with sensitive information protections such that Ms. Lance's social security number is now available to the public.

467. In June 2014 Ms. Lance submitted a charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's letter dated October 3, 2014, in which it requested information from Respondent as part of its screening investigation, and in which it requested that Respondent produce a copy of his client file.

COUNT TWENTY-EIGHT (File no. 14-2045/Jayne Hansen)

468. On November 7, 2012, Complainant Jayne Hansen and her mother Jo Ann Hancox visited Respondent's office for a free initial consultation to discuss filing for bankruptcy protection.

469. Ms. Hansen and Ms. Hancox were not permitted to meet with Respondent. Rather, they were relegated to meeting with Respondent's assistant. The assistant gave them a written fee agreement and told them that they would

have to make payments until they paid a total of \$800 before Respondent would take any action.

470. Ms. Hansen and Ms. Hancox each paid \$100 to Respondent's office, but neither signed the fee agreement. Later, they both changed their minds and decided not to have Respondent represent them.

471. Ms. Hansen contacted Respondent's office and asked for a \$200 refund. She followed up several times by phone and email but was able to speak only with assistants. The assistants falsely told Ms. Hansen that she signed a fee agreement. They also told her that the fee agreement (that neither she nor Ms. Hancox signed) called for a nonrefundable administrative fee of \$350.00.

472. Respondent furnished no legal services of any kind to Ms. Hansen or Ms. Hancox.

473. In July 2014 Ms. Hansen submitted a charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's letters dated July 14 and August 7, 2014, in which it requested information from Respondent as part of its screening investigation, and in which it requested that Respondent produce a copy of his client file.

COUNT TWENTY-NINE (File no. 14-2179/Russell Parent)

474. From January 2012 to December 2013, Respondent represented Complainant Russell Parent in a Chapter 13 bankruptcy matter. Due to Respondent's lack of diligence in providing the trustee with documentation necessary to confirm Mr. Parent's plan, the bankruptcy court dismissed Mr. Parent's bankruptcy petition.

475. Upon learning of the dismissal, Mr. Parent tried to contact Respondent by phone and email but Respondent did not respond to most of Mr. Parent's efforts to communicate.

476. In April 2014, Respondent conceded to Mr. Parent that dismissal of the case was his fault. He agreed to pay Mr. Parent \$1,000 plus an unidentified amount of a garnishment that would otherwise not have occurred but for dismissal of the bankruptcy petition.

477. On July 9, 2014, Mr. Parent filed a charge with the State Bar of Arizona in which he alleged, among other things, that Respondent had not paid him the agreed amount.

478. Respondent failed to respond to the State Bar's letters dated July 14 and August 7, 2014, in which it requested information from Respondent as part of its screening investigation, and in which it requested that Respondent produce a copy of his client file.

COUNT THIRTY (File no. 14-2279/Sarah Rivero)

479. In May 2014 Complainant Sarah Rivero retained Respondent to represent her in a family court matter involving parenting time. She paid him \$1,500 for the representation.

480. Ms. Rivero gave Respondent all documentation necessary for the representation. A court hearing on parenting time was scheduled for June 6, 2014.

481. On June 5, 2014, Respondent called Ms. Rivero to prepare for the next day's hearing. On June 6, Respondent appeared 30 minutes late for the hearing and

presented to the judge in open court his Notice of Appearance even though he had been Ms. Rivero's lawyer since May.

482. Respondent did not participate in the hearing; Ms. Rivero did all of the talking.

483. The court entered orders for parenting time and ordered the father to permit Ms. Rivero to do a police-escorted walk-through of their former joint home to obtain her belongings.

484. Ms. Rivero told Respondent that the father gave the court a false address. Respondent told Ms. Rivero not to abide by the court's parenting time order, and that he would file a motion on June 13, 2014, to stop or modify the father's parenting time.

485. For a month Ms. Rivero regularly called Respondent's office for an update on the motion but was unable to speak with him. She left messages for him that went unreturned.

486. Ms. Rivero contacted the court personally and learned that a hearing was scheduled for July 14, 2014. She learned that the father filed a motion to enforce the June 6, 2014 parenting time order.

487. The father and Ms. Rivero appeared in court in person for the July 14 hearing. Respondent appeared by telephone. The court chastised Respondent for not filing an appropriate motion to modify the father's parenting time or to address the father's false identification of his address. The court ruled that Ms. Rivero violated the parenting time order and awarded to the father substantial make-up time.

488. Ms. Rivero dismissed Respondent as her counsel and hired new counsel. She needed her file from Respondent and, starting on July 21, 2014, requested it from his office several times. When Respondent failed to give Ms. Rivero her file, she contacted the State Bar. A State Bar intake counsel called Respondent's office on August 20, 2014. He was unable to reach Respondent so he told an assistant to tell Respondent that the bar would evaluate Ms. Rivero's charge and would add Respondent's failure to give Ms. Rivero her file unless Respondent gave her the file immediately.

489. In August 2014 Ms. Rivero submitted a written charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's letters dated September 4 and October 1, 2014, in which it requested information from Respondent as part of its screening investigation, and in which it requested that Respondent produce a copy of his client file.

COUNT THIRTY-ONE (File no. 14-2304/Christopher Harris)

490. On January 5, 2014, Complainant Christopher Harris retained Respondent to represent him in a DUI case. Mr. Harris paid Respondent \$2,500 for the representation.

491. Respondent told Mr. Harris that he need not attend a January 10 court date, and that Respondent would attend court for him. Mr. Harris later emailed Respondent to ask what occurred in court but Respondent did not respond.

492. In February 2014, Mr. Harris received in the mail a warrant for his arrest stating that he missed a court date on January 17, 2014. Mr. Harris had not attended court that day because Respondent failed to notify him of it.

493. Mr. Harris called Respondent about this but Respondent did not return the calls. Mr. Harris emailed Respondent about the warrant and Respondent replied that he would take care of it. Mr. Harris also asked Respondent to send him certain paperwork about his case so that he could obtain an alcohol evaluation and get back his driver's license. Respondent failed to provide to Mr. Harris the requested documents.

494. In April 2014 Respondent told Mr. Harris that the case was dismissed. Mr. Harris contacted the court to confirm that his case was dismissed and learned that it was not dismissed because the matter of the arrest warrant was still open. Mr. Harris contacted Respondent about this. Respondent offered excuses, explained that the court gave Mr. Harris incorrect information, promised to take care of it, and promised to give Mr. Harris weekly updates on the status of the matter.

495. Respondent did not brief Mr. Harris weekly. In May 2014 he sent Mr. Harris his ticket that Mr. Harris had been requesting for several months. In July 2014, Mr. Harris terminated the representation and requested a refund of his fees. Respondent did not respond.

496. In July 2014 Mr. Harris submitted a written charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's letters dated August 6 and September 2, 2014, in which it requested information from Respondent as part of its screening investigation, and in which it requested that Respondent produce a copy of his client file.

COUNT THIRTY-TWO (File no. 14-2338/Dorothy Stokely-Glidden)

497. In August 2013, Complainant Dorothy Stokely-Glidden retained Respondent's law firm to represent her in connection with a bankruptcy case. The fee agreement called for a fee of \$1,195.00, plus \$33.00 per month for three months if Ms. Stokely-Glidden utilized Respondent's payment plan to pay the fees.

498. On August 30, 2013, Ms. Stokely-Glidden paid Respondent's firm \$595.00. She tried to pay the balance at \$233.00 per month from January-March 2014 but her bank account was frozen due to a garnishment.

499. Starting in May 2014, Respondent's assistants initiated attempts to collect additional funds from Ms. Stokely-Glidden. They re-offered to her the option of paying her balance over three months. However, Respondent's assistants denied that Respondent's firm handled bankruptcy matters for only \$1,195.00.

500. To avoid paying Respondent's finance charges, Ms. Stokely-Glidden borrowed \$600 and paid that sum to Respondent's firm on June 10, 2014, intended as payment in full. She wrote "Final Payment" on her check. Respondent's assistants, however, accused Ms. Stokely-Glidden of unilaterally concocting a false balance and, in July 2014, falsely told her that she still owed \$1,167.00. One of Respondent's assistants crossed out the "Final Payment" language on Ms. Stokely-Glidden's check and wrote over it, "Not Final!"

501. On July 21, 2014, Respondent's assistant wrote an email to Ms. Stokely-Glidden and accused her of attempting to defraud Respondent's law firm "by trying to conspicuously sneak in a 'paid in full' on your check which is fraud and a federal offense." The assistant told Ms. Stokely-Glidden to settle her balance "or

we will have no option but to pursue collection efforts against you and other legal redress available to us.”

502. The intimidation tactics that Respondent’s employees utilized against Ms. Stokely-Glidden caused her “immobilizing fear” and affected her health and job performance.

503. In July 2014 Ms. Stokely-Glidden submitted a written charge against Respondent to the State Bar. Respondent failed to respond to the State Bar’s letters dated August 6 and September 2, 2014, in which it requested information from Respondent as part of its screening investigation, and in which it requested that Respondent produce a copy of his client file.

COUNT THIRTY-THREE (File no. 14-2549/State Bar-Judicial Referral)

504. Respondent represented Bobby Chow, the father, in Pinal County Superior Court family court matter no. S1100DO201300874.

505. On March 21 and May 28, 2014, the court ordered Respondent to prepare a Consent Decree. Respondent failed to do so, so the court ordered Respondent to pay sanctions to the mother.

506. The court set a review hearing for August 8, 2014. The mother and her counsel appeared but Respondent and Mr. Chow did not. The court noted that Respondent and Mr. Chow failed to appear at the last two hearings. The court determined to proceed with the review hearing as an appropriate sanction for Respondent and his client failing to appear.

507. By the time of the review hearing a consent decree was submitted so the court entered findings consistent with its provisions.

508. In August 2014 the judicial complainant submitted a written charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's letters dated September 2 and October 1, 2014, in which it requested information from Respondent as part of its screening investigation.

COUNT THIRTY-FOUR (File no. 14-2593/John & Tiffany Tellez)

509. In August 2013, Complainants John and Tiffany Tellez retained Respondent to represent them in a child custody matter. They paid Respondent \$2,500 to represent Mr. Tellez in Maricopa County Superior Court cause no. FC2013-095386.

510. Were this count to proceed to a contested hearing, the State Bar would offer evidence to support the following charges (sub-paragraphs a.-f.) while Respondent would offer evidence to rebut those charges:

a. Respondent appeared significantly late to a court-ordered settlement conference and a deposition;

b. Respondent acted without client consent or knowledge when he told the court and opposing counsel that Mr. Tellez agreed to a parenting conference the mother requested. Mr. Tellez was unaware of the scheduled conference until he learned of it from the child's psychologist's office;

c. Respondent agreed to a hearing postponement without Mr. Tellez's consent and without informing him. Mr. Tellez learned of the postponement when he contacted the court on a different subject;

d. Respondent did not respond to Mr. Tellez's phone messages and emails, and failed to conduct discovery on subjects Mr. Tellez requested including to obtain the child's medical and education records;

e. On some occasions Respondent sent others in his office to hearings with insufficient advance notice such that they were unprepared for and uninformed about the case;

f. The court set a hearing in Mr. Tellez's case for October 15, 2014. In September 2014, Mr. Tellez filed a motion seeking Respondent's discharge as his lawyer, and a motion to postpone the hearing to allow him time to hire new counsel. The bases for Mr. Tellez's motions included many of the foregoing allegations. Over the mother's objection, the court continued the October hearing to December 2014. The judge also granted Mr. Tellez's motion to dismiss Respondent as his counsel.

511. In September 2014 Mr. and Mrs. Tellez submitted a written charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's letter dated October 3, 2014, in which it requested information from Respondent as part of its screening investigation.

COUNT THIRTY-FIVE (File no. 14-3167/Phillip Day)

512. Complainant Phillip Day is the President of Academy of Financial Literacy, Inc., a nonprofit credit counseling corporation. The organization entitled My AZ Lawyers referred its clients to Mr. Day's corporation to complete bankruptcy credit counselling or financial management courses. Mr. Day billed My AZ Lawyers monthly and charged a credit card My AZ Lawyers provided to collect the bills.

513. Starting in June 2014, My AZ Lawyers stopped paying Mr. Day's bills. By September 8, 2014, the amount due was \$492.75.

514. Respondent owns My AZ Lawyers and operates an internet advertising website by that name. The advertisement does not include the name and contact information for at least one lawyer or law firm responsible for its content.

515. In October 2014 Mr. Day submitted a written charge against Respondent to the State Bar. Respondent failed to respond to the State Bar's letter dated October 27, 2014, in which it requested information from Respondent as part of its screening investigation.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that his conduct violated Rule 42, specifically ERs 1.1-Competence, 1.2-Scope of Representation and Allocation of Authority between Client and Lawyer, 1.3-Diligence, 1.4-Communication, 1.5-Fees and Fee Agreements, 1.15-Safekeeping Property, 1.16(d)-Terminating Representation, 3.2-Expediting Litigation, 3.4(c)-Fairness to Opposing Party and Counsel, 5.3-Responsibilities Regarding Nonlawyer Assistants, 7.2(c)-advertising, 7.3-Direct Contact with Prospective Clients, 8.1-Disclosure to Disciplinary Authority, 8.4(d)-Misconduct Prejudicial to the Administration of Justice; Rule 41(c)-Duty to Maintain Respect to Courts and Judicial Officers; Rule 41(g)-Unprofessional Conduct; Rule

54(c)-Violation of Rule or Court Order; and Rule 54(d)-Violation of State Bar Obligation in a Disciplinary Investigation.

RESTITUTION

Respondent shall pay restitution in the following cases, by January 30, 2015:

- i. Count 13, SBA no. 13-2278, Borling, \$1,160.00;
- ii. Count 15, SBA no. 13-2587, Bartlett, \$750.00;
- iii. Count 16, SBA no. 14-0149, Day, \$9,680.00;
- iv. Count 24, SBA no. 14-1313, McCabe, \$841.00;
- v. Count 26, SBA no. 14-1726, Ramirez, \$559.50;
- vi. Count 28, SBA no. 14-2045, Hansen, \$200.00;
- vii. Count 29, SBA no. 14-2179, Parent, \$1,000.00, plus the amount of the garnishment to be established by court filings;
- viii. Count 31, SBA no. 14-2304, Harris, \$2,500.00; and
- ix. Count 35, SBA no. 14-3167, Day, \$492.75.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate:

1. A suspension of one year, effective January 1, 2015. A suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona;

2. Probation on the following terms:

a. Restitution or proof of payment, as described above;

b. Fee arbitration in the following cases, to be completed and all awards paid by June 30, 2015:

- i. Count 1, SBA no. 12-3006, De La Luz;
- ii. Count 2, SBA no. 13-0685, Kain;
- iii. Count 4, SBA no. 13-0868, Benson;
- iv. Count 5, SBA no. 13-1078, Mazurkewicz;
- v. Count 8, SBA no. 13-1618, Fickenscher;

- vi. Count 11, SBA no. 13-1817, Nowak;
- vii. Count 12, SBA no. 13-1854, Hampton;
- viii. Count 14, SBA no. 13-2394, Campos-Fuller;
- ix. Count 17, SBA no. 14-0232, Potter;
- x. Count 18, SBA no. 14-0431, Murrieta;
- xi. Count 19, SBA no. 14-0451, Krah;
- xii. Count 20, SBA no. 14-0470, Griffin;
- xiii. Count 22, SBA no. 14-0593, Uthe;
- xiv. Count 23, SBA no. 14-1190, Smith;
- xv. Count 25, SBA no. 14-1314, Diaz;
- xvi. Count 30, SBA no. 14-2279, Rivero;
- xvii. Count 32, SBA no. 14-2338, Stokely-Glidden; and
- xviii. Count 34, SBA no. 14-2593, Tellez.

c. During his suspension Respondent must adhere to and comply with the written business plan he produced to the State Bar detailing his anticipated involvement with the law firm that will employ him (the "new law firm") during his suspension. A copy of that business plan is attached hereto as Ex. 1, and its terms are incorporated herein by this reference. The parties agree that the business plan provides a general outline of Respondent's and the new law firm's intentions while Respondent is suspended, and is not intended as a comprehensive enumeration of all of Respondent's and the new law firm's employees' professional and ethical duties. If information comes to light that Respondent or an attorney employed at the new law firm allegedly violated the Rules of Professional Conduct the State Bar retains the right and duty to screen, investigate, and if appropriate prosecute Respondent and/or such attorney(s) for any such violation and not only for a violation of the business plan.

d. Respondent shall continue to contract with Lynda Shely, as he has during his interim suspension, to act as his and the new law firm's practice

monitor to assure compliance with the business plan. Should Ms. Shely choose to discontinue her role as practice monitor for Respondent or the new law firm, Respondent may contract with a successor agreeable to the State Bar. The State Bar will not unreasonably withhold its agreement to a successor;

e. During his suspension Respondent shall maintain and/or obtain professional liability insurance covering claims against him, the law firm he owned or with which he was associated during the events described below, and the new firm, with liability limits no less than \$100,000 per claim. The State Bar will not initiate proceedings against Respondent if he produces written, corroborable evidence from insurance agents or underwriters that he does not qualify for such coverage;

3. Upon his reinstatement, Respondent shall be placed on probation for two years with the State Bar's Law Office Management Assistance Program ("LOMAP") and Member Assistance Program ("MAP"), or equivalent programs. Nothing stated herein shall inhibit a reinstatement hearing panel from imposing additional probationary terms.

4. Respondent agrees to pay the costs and expenses of the disciplinary proceeding, as detailed above.

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought as stated above.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The duty violated – The parties agree that Respondent violated his duties to his clients, the legal system, and as a professional.

The lawyer's mental state – The parties agree that Respondent consistently acted with a negligent mental state throughout all of the violations listed, owing largely to his ineptitude in business and office management.

The extent of the actual or potential injury – The parties agree that there was both actual and potential injury to Respondent's clients, the legal system, and the legal profession.

In view of the foregoing, the parties agree that the following *Standards* are appropriate:

ER 1.1

Standard 4.53

Reprimand is generally appropriate when a lawyer: . . . (b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

ERs 1.2, 1.3, and 1.4

Standard 4.42

Suspension is generally appropriate when: . . . (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

ER 1.5

Standard 4.63

Reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.

ER 1.15

Standard 4.13

Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.

ERs 1.16, 5.3, 7.2, and 7.3

Standard 7.3

Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.

ERs 3.2, 3.4(c), and 8.4(d), and Rule 54(c)

Standard 6.23

Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

Standard 6.22

Suspension is appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

ER 8.1

Standard 7.2 and Rule 54(d)

Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and

causes injury or potential injury to a client, the public, or the legal system.

"The *Standards* do not account for multiple charges of misconduct. The ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations; it might well be and generally should be greater than the sanction for the most serious misconduct." *Standards*, II. Theoretical Framework. Given the foregoing, the presumptive principal sanction is a suspension of some length.

Aggravating and mitigating circumstances

The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Aggravating factors include *Standard 9.22*--

- (c) a pattern of misconduct;
- (d) multiple offenses;
- (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency;
- (h) vulnerability of victims;
- (i) substantial experience in the practice of law;
- (j) indifference to making restitution.

In mitigation:

Mitigating factors include *Standard 9.32*--

- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (c) personal or emotional problems--Respondent suffered through the deaths of three close members of his family from 2012-2014 (see obituaries attached as Exhibit 3) and also has attention deficit disorder which was recently diagnosed and for which he is currently being treated and takes prescribed medication (see medical dictation attached as Exhibit 4);
- (g) character or reputation – as supplemental exhibits Respondent will furnish to the court letters attesting to his good character or reputation within five days of filing this consent.

Discussion

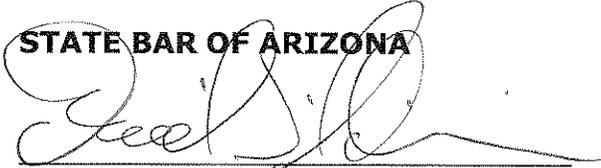
The parties conditionally agree that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive principal sanction of suspension is appropriate. The number and pattern of offenses, and Respondent's failure to respond to the many State Bar screening investigations, militate in favor of a multi-year suspension. The probationary terms, including substantial restitution and fee arbitration, continued monitoring of Respondent's surviving firm while he is suspended, and the fact that Respondent has been on an interim probation status since September 2014, render a one-year suspension adequate. Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of a one-year suspension (which will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law), probation as described, and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit 5.

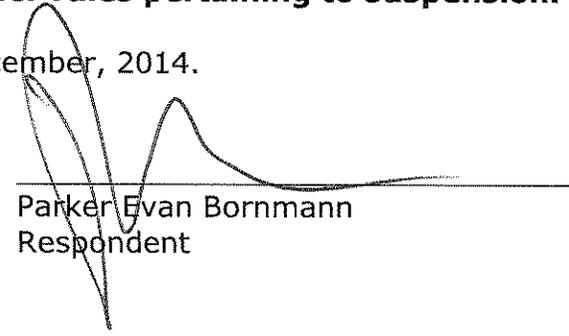
DATED this 10th day of December 2014.

STATE BAR OF ARIZONA

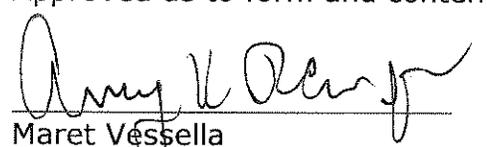

David L. Sandweiss
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this 10th day of December, 2014.


Parker Evan Bornmann
Respondent

Approved as to form and content


Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 10th day of December 2014.

Copies of the foregoing mailed/emailed
this 10th day of December 2014 to:

Parker Evan Bornmann
1731 W. Baseline Rd., Ste. 101
Mesa, AZ 85202-5730
evan.bornmann@gmail.com
Respondent

Copy of the foregoing emailed
this 10th day of December, 2014, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov

Copy of the foregoing hand-delivered
this 10th day of December, 2014, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: 
DLS: JLD

EXHIBIT 1

Business Plan for Transfer of Firm

I. Transfer of Practice

In order to comply with all applicable rules and to wind down the practice owned and run by Parker Evan Bornmann, the firm as it exists shall be transferred to a licensed attorney whom is currently employed by Bornmann. This transfer will be conducted in accordance with the ethical rules governing the sale of a firm under E.R. 1.17. By processing the transfer in accordance with the rules governing a sale of the firm, the following goals are achieved:

- A. All staff, including attorney's can remain employed
- B. Client work can continue seamlessly
- C. All improvements and systems put in place to alleviate problems previously identified with Lynda Shely can remain in place, with further assistance from Lynda Shely if necessary.
- D. Clients can continue to communicate with their attorney's and staff at the same phone numbers and same office as they are currently accustomed.
- E. Attorney's currently employed by Bornmann can maintain their client relationships, and vice versa

Notice:

All Clients shall be notified of the transfer of the control and ownership of the firm in accordance with E.R. 1.17(c) as follows:

Each client will be notified of the transfer in writing gives written notice to each of the clients regarding:

- (1) the proposed transfer of the firm;
- (2) the client's right to retain other counsel or to take possession of the file; and
- (3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of receipt of the notice.

If a client cannot be given notice, the representation of that client may be transferred to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of a file.

II. Notice of Suspension

In addition to the above notice of transfer, each client specifically assigned to and represented personally by Parker Evan Bornmann shall be notified of the suspension under the consent agreement. All clients will be given the option of continuing under their original contract with another attorney in the firm, or terminating at their election. Additionally the clients will be informed that Mr. Bornmann will be remaining at the surviving firm as a paralegal so his knowledge of their case will not be lost.

III. Winding Down of Prior Practice

Accounts receivable currently owned by Parker Evan Bornmann shall only be transferred with active clients. All accounts receivable related to previous clients with closed matters shall be collected and owned by Parker Evan Bornmann. Should Mr. Bornmann require legal action to collect on any of these accounts he will hire counsel to file any legal action in order to prevent any unauthorized practice of law while suspended from practice.

IV. Employment of Parker Evan Bornmann under the surviving firm

Parker Evan Bornmann shall be employed at the new firm in the capacity of a paralegal only. He will not have any management authority nor control over the firm. Mr. Bornmann shall be supervised at all times by a licensed attorney, and shall not substitute his opinion or work for that of a supervising attorney. Mr. Bornmann shall be employed as any ordinary paralegal or support staff, and shall be supervised under E.R. 5.3, shall not have authority to influence the professional independence of any attorney in the firm. Further, all communication, written statements, email accounts, business cards and other firm materials shall clearly list Mr. Bornmann as a non-attorney in compliance with E.R. 5.5

In addition to the above, Mr. Bornmann shall clearly communicate with every client that he is a non-attorney when meeting with clients to work individual cases. Mr. Bornmann shall be supervised to ensure he does not issue any legal advice. Mr. Bornmann's interaction with clients will be intentionally limited and closely supervised to prevent any circumstance in which a client could possibly interpret Mr. Bornmann as giving legal advice. All legal advice given on cases worked by Mr. Bornmann as a non-attorney shall come from a supervising attorney who is licensed to practice law in the state of Arizona.

Mr. Bornmann will be paid a salary, and will not participate in profit sharing in the surviving firm. Any salary or monetary bonuses shall comply with the Rules of Professional Conduct regarding payment of non-attorney's and the banishment of fee splitting.

V. TIME

All transfer, notices, and withdrawals that must be signed by Parker Evan Bornmann must be completed Prior to the onset of the Suspension pursuant to the consent agreement entered into by Mr. Bornmann and the State Bar of Arizona.

EXHIBIT 2

Statement of Costs and Expenses

In the Matter of a Current Member of the State Bar of Arizona,
Parker Evan Bornmann, Bar No. 024909, Respondent

PDJ No. 2014-9069

File Nos. 12-3006, 13-0685, 13-0794, 13-0868, 13-1078, 13-1349, 13-1422,
13-1618, 13-1623, 13-1815, 13-1817, 13-1854, 13-2278, 13-2394, 13-2587,
14-0149, 14-0232, 14-0431, 14-0451, 14-0470, 14-0586, 14-0593, 14-1190,
14-1313, 14-1314, 14-1726, 14-1828, 14-2045, 14-2179, 14-2279, 14-2304,
14-2338, 14-2549, 14-2593, and 14-3167

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

03/18/14 Deposition of Respondent \$ 451.50

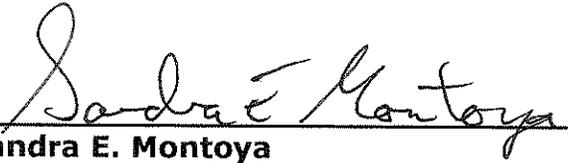
Total for staff investigator charges \$ 451.50

Total Costs and Expenses for each matter over 5 cases where a violation is admitted or proven.

(30 over 5 x \$240.00): \$ 7,200.00

TOTAL COSTS AND EXPENSES INCURRED

\$ 8,851.50



Sandra E. Montoya
Lawyer Regulation Records Manager

11-20-19
Date

EXHIBIT 3

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Stephen Craig Bornmann

September 10, 1948 - January 7, 2013

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Born: September 10, 1948
Place of Birth: Miami, FL USA
Death: January 7, 2013
Place of Death: Gila, NM USA
Occupation: Retired police officer

[SURVIVED BY](#)

- Albert H. Bornmann, Father
- Donna (Cuker) Bornmann, Spouse
- Kelly Brantner, Daughter
- Kari Girard, Daughter
- Jupe Bornmann, Son
- Brent Bornmann, Brother
- Trinity, Alaura and Hunter Girard and Calyn Brantner, Grandchildren

Life Legacy

Stephen Craig Bornmann passed away on Monday, January 7th, at his home in Gila, New Mexico. He was born September 10, 1948 in Miami, Florida to Albert H. and Helen J. (Stephens) Bornmann. He is survived by his father, wife Donna (Cuker) Bornmann, daughters Kelly (Craig) Brantner of Palouse, WA and Kari (Tim) Girard of Aurora, CO; son Jupe Bornmann of Las Cruces, NM, brother Brent (Debbie) Bornmann of Spring Branch, TX, former wife Kris (Koch) Gurney, and four grandchildren Trinity, Alaura and Hunter Girard and Calyn Brantner. Craig graduated from Wilcox High School, Santa Clara, CA and studied psychology at University of San Francisco and earned a bachelor's degree in Public Safety. He served in the Army, stationed at the Presidio, San Francisco. Craig served on the police forces and fire departments of Sunnyvale, CA, Joseph, OR, and Grant County, NM. He was a detention officer in Phoenix, AZ, and owned both construction and wood-working businesses. Craig was very in love with God and showed this through his Baha'i faith. His charisma and charm were the perfect delivery system through which he shared this love. He didn't even need to know a person to want to help them and show them a kindness, but his friends and family knew they could always count on him in any situation at any time to do anything he could. He loved all animals and they adored to him. He wrote beautiful music that was inspirational, and also made up alternate lyrics to songs that could make a person laugh until tears flowed. He was a gregarious man that expressed great joy in time spent with family and friends, meaningful conversations, spending time outdoors, and building a stronger relationship with God. To honor Craig, the family asks that you take time to tell your friends and family how much you love them and help a friend or a stranger in any way that you can.

A memorial service will be held Friday, January 11th at 11:00 am at the Terrazas Funeral Chapel in Santa Clara, NM with a gathering/pot luck to follow at the Bayard Community Center. All are welcome. Arrangements are with Terrazas Funeral Chapels "Trusted care for the ones you love" ~ 575-537-0777. To send condolences, visit www.terrazasfuneralchapel.com.

PRECEDED BY

Heleen J. (Stephens) Bornmann, Mother

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Helen Jean Bornmann Obituary

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Bornmann, Helen Jean
 Helen Jean Bornmann, 86, of Sun Lakes, Arizona died November 1, 2012 in Pullman Washington. She was born on January 6, 1926 in Paris, Arkansas, the daughter of the late William Columbus and Dora Mae Stephens. She was the youngest of 3 siblings. She married Albert Herman Bornmann Junior, in April of 1948 who survives

her. Helen and Albert resided in Santa Clara, California for 27 years, the relocated to Sun Lakes following Albert's retirement in 1986. Helen loved Arizona and considered Sun Lakes to be her home. She selflessly served her family as a homemaker and dedicated her life to caring for and loving them. She was an accomplished cook and creative seamstress and loved designing and making clothing for her family. During the peak of the Barbie and Ken doll craze, she enjoyed commercial success in making exquisite custom clothing for the dolls, which their young owners appreciated very much. She loved to shop, socialize and work on home crafts. Helen could always be counted on to bring her quick laugh, sense of humor, and love of socializing to any event, enjoying conversation and learning about others. In her retirement she was active in the Sun Lakes Women's Association and the Sun Lakes Post 8053 Veterans of Foreign Wars Ladies Auxiliary. She is survived by her husband, Albert, son and daughter-in-law Craig and Donna Bornmann of Gila New Mexico, son and daughter-in-law Brent and Debbie Bornmann of Spring Branch, Texas; Five grandchildren, Kelly Brantner of Palouse, Wash., Kari Girard of Aurora, Co., Evan Bornmann of Tempe, Az., Erick Bornmann of Tucson, Az., Jubal Bornmann of Gila, NM. ; and three great grandchildren Trinity and Alaura Girard and Calyn Branter. Mrs. Bornmann was preceded in death by her brothers, Carl and Morris Stephens. Visitation will be held on Friday November 16, 2012 from 1:00 - 3:00 PM at Valley of the Sun Mortuary 10940 E. Chandler Heights Rd, Chandler, Arizona 85248. To leave condolences visit www.valleyofthesunfuneralhome.com.

Guest Book

1 entry

The Guest Book is expired.

Restore the Guest Book

Funeral Home Details

Dignity
 Valley of the Sun Mortuary & Cemetery
 Chandler, AZ (480) 895-9232

Website
 Map/Directions

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Published in The Arizona Republic on Nov. 13, 2012

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Learn more about the Bornmann family on Ancestry.com



According to the 1920 census there were 43 families with the Bornmann surname in the United States.

During the Civil War the Bornmann name was found in 0 Confederate Records and 2 Union Records.

Find out more about the Bornmann surname.

Bornmann families by state in 1920

6 - 9	1 - 2
3 - 5	0

According to the 1920 U.S. Federal Census Data

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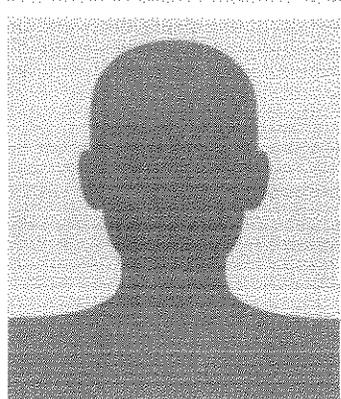
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Albert Herman Bornmann, Jr.

April 26, 1923 - January 4, 2014



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Obituary for Albert Herman Bornmann, Jr.

The family has requested private services.

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EXHIBIT 4

Robert J. Bloomberg, M.D., P.C.
6301 S. McClintock Dr. #201
Tempe, AZ 85283
Phone: (480) 838-3100 Fax: (480) 838-3902

Progress Notes
Bornmann, Parker
Patient ID: BORPA001
DOB: 06/25/1981
Age: 33 years **Gender:** M

03/21/2014

03/21/14 : 03:23pm

ESTABLISH CARE - Sue Hsieh FNP-C

Date of Birth: 06/18/81

Subjective:

This 32 year old male presents to establish care. c/o anxiety and concentration. ADD screening done.

Denied having chest pain, chest pressure, or palpation.

Past Medical History:

NO ACTIVE MAJOR PROBLEMS

Surgical / Procedural History:

Social History:

none

Family History:

Hypertension: other family member
prostate cancer. testicular father, other family member
Depression: other family member

Review of Systems:

Constitutional: No fevers, chills, night sweats, fatigue or unexplained weight loss
Eyes: No visual changes, discharge or eye pain
Ears: No hearing loss, tinnitus, vertigo, otorrhea or ear pain
Nose/Mouth/Throat: No nasal congestion, rhinorrhea, oral lesions, postnasal drip or sore throat
Cardiovascular: No chest pain or palpitations.
Respiratory: No cough, shortness of breath or wheezing
Gastrointestinal: No diarrhea, constipation, blood in stools, abdominal pain, vomiting or heartburn
Genitourinary: No urinary frequency, hematuria, incontinence, or dysuria
Musculoskeletal: No arthalgias, myalgias or joint swelling
Skin: No rash or bothersome skin lesions
Breast: No lumps or nipple discharge
Neurological: No headaches, parasthesias, confusion, dysarthria or gait instability
Psychiatric: concentration problem.
Hematologic/Lymphatic: No easy bruising, easy bleeding or swollen glands
Allergic/Immunologic: No itching, sneezing , watery eyes, clear rhinorrhea or recurrent infections

Current Medications:

Medication Allergies:
PENICILLIN, ERYTHROMYCIN

Vital Signs:

Bp: 130/80, Pulse: 100
Height: 5'9", Weight: 227 lbs
BMI: 33.55 kg/m2

Robert J. Bloomberg, M.D., P.C.
6301 S. McClintock Dr. #201
Tempe, AZ 85283
Phone: (480) 838-3100 Fax: (480) 838-3902

Progress Notes
Bornmann, Parker
Patient ID: BORPA001
DOB: 06/25/1981
Age: 33 years Gender: M

03/21/2014

Objective:

General: Well appearing, well nourished in no distress.
Skin: No rash or prominent lesions.
Hair: Normal texture and distribution.
Nails: Normal color, no deformities.
Head: Normocephalic, atraumatic.
Eyes: Conjunctiva clear, EOM intact, PERRL.
Ears: Ear canals clear, tympanic membranes clear, ossicles normal appearance.
Sinuses: Right frontal tender to palpation.
Nose: No external lesions, mucosa non-inflamed, septum and turbinates normal, no discharge or blood.
Mouth: Mucous membranes moist, no mucosal lesions.
Throat: no erythema, exudates or lesions.
Neck: Supple without lymphadenopathy.
Heart: RRR, no murmur
Lungs: CTA&P bilaterally, no wheezes, rhonchi, rales. Breathing unlabored.
Chest wall: No swelling, ecchymosis, erythema or deformity.
Abdomen: Soft, NT/ND, no HSM, no masses.
Back: spine normal without deformity or tenderness. Normal ROM
Extremities: No deformities, clubbing, cyanosis, or edema.
Musculoskeletal: Normal symmetry, tone, strength and ROM. No effusions, instability or tenderness to palpation
Lymphatics: No lymphadenopathy
Neurologic: A/O x 3. Intact cognition. No focal sensory or motor deficits. Normal gait and station.
Psychiatric: Intact memory, judgement and insight, normal mood and affect. Speech normal rate and tone.

Dip UA:

Urine Microscopic Analysis:

Assessment:

ESTABLISH CARE

ATTENTION DEFICIT DIS WO HYPERACTV : 314.00

Plan:

45 minutes spent with patient, greater than 50% of the office visit was dedicated to counseling, reviewing tests & labs, treatment options and follow up plans.
45

Y

Office Visit Level 4 : 99204

Rx: ADDERALL 10MG 1 TAB DAILY , 60, Ref: 2
Extended sig exists; see Medication List.

#Orders: CBC with Diff and Platelets [Do in Routine days], CMP [Do in Routine days], TSH [Do in Routine days],
GLYCOHEMOGLOBIN A1C [Do in Routine days], Uric Acid [Do in Routine days], ESR [Do in Routine days], VITAMIN B12 [Do in
Routine days], Vitamin D, 25 hydroxy LEVEL [Do in Routine days], PSA [Do in Routine days], URINALYSIS w/MICRO + REF C&S [Do
in Routine days], Lipid Panel [Do in Routine days]

Robert J. Bloomberg, M.D., P.C.
6301 S. McClintock Dr. #201
Tempe, AZ 85283
Phone: (480) 838-3100 Fax: (480) 838-3902

Progress Notes
Bornmann, Parker
Patient ID: BORPA001
DOB: 06/25/1981
Age: 33 years **Gender:** M

03/21/2014

#	SIGNED BY ROBERT J BLOOMBERG, MD, Phd (NN)	03/21/2014 03:37PM
#	REVISED BY ROBERT J BLOOMBERG, MD, Phd (NN)	03/21/2014 04:22PM

Robert J. Bloomberg, M.D., P.C.
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Tempe, AZ 85283
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Progress Notes
Bornmann, Parker
Patient ID: BORPA001
DOB: 06/25/1981
Age: 33 years Gender: M

06/25/2014

06/25/14 : 08:49am
OFFICE VISIT - SUE HSIEH FNP-C

Date of Birth: 06/25/81 Age: 33 year

Major Problems:

ATTENTION DEFICIT DIS WO HYPERACTV

Past Medical History:

NO ACTIVE MAJOR PROBLEMS

Surgical / Procedural History:

none

Health Maintenance:

Current Medications:

Rx: ADDERALL 10MG 1 TAB DAILY - days, 60, Ref: 2

Medication Allergies:

PENICILLIN, ERYTHROMYCIN

Social History:

Marital Status: single

Smoking: Current every day 1-3 cig pd

Tobacco Exposure: none

Alcohol Quit Date:

Caffeine: moderate

Illicit Drug Use: no

Prescription Drug Abuse: no

Family History:

Hypertension: other family member

prostate cancer. testicular father, other family member

Depression: other family member

Subjective: This 33 year old male presents . to the clinic to have his Adderal refill. Denied having chest pain or chest pressure.

Review of Systems:

Constitutional: No fevers, chills, night sweats, fatigue or unexplained weight loss

ENMT: No visual changes, discharge or pain; No hearing loss, tinnitus, vertigo, otorrhea or ear pain; No nasal congestion, rhinorrhea, epistaxis, oral lesions, dental pain, postnasal drip, dysphonia or sore throat

Cardiovascular: No chest pain, palpitations, syncope, orthostasis, DOE, orthopnea, PND, pedal edema.

Respiratory: No cough, hemoptysis, shortness of breath, wheezing, pleurisy

GI: No diarrhea, constipation, blood in stool, abdominal pain, vomiting, heartburn, dysphagia or odynophagia.

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Progress Notes
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Patient ID: BORPA001
DOB: 06/25/1981
Age: 33 years Gender: M

06/25/2014

GU: No urinary frequency, hematuria, incontinence, or dysuria
Musk: No trauma history, arthalgias, myalgias, weakness or joint swelling

Skin: No rash, unhealing ulcer or new skin lesions
Breast: No lumps, pain, deformity or nipple discharge
Neuro: No headaches, unsteadiness, loss of vision, speech, sensation or strength
Psych: No anxiety, depression, problems with listlessness, sleep, appetite or enthusiasm
Hem/Lymph: No easy bruising, unexplained bleeding or swollen glands.
Allergic/Immu: No rhinitis, cough, wheeze, dyspnea, rash or pruritis

Vital Signs:

Bp: 142/82, Right Arm, Pulse: 97
Temperature: 98.5 F, Height: 5'9", Weight: 234 lbs
Oximetry: 96 %
BMI: 34.59 kg/m²
Waist Measurement: 47 Inches

Objective:

GENERAL: Well appearing, well nourished, good hygiene and in no obvious distress.
SKIN: No rash or suspicious lesions.
HAIR: Normal texture, density and distribution.
NAILS: Normal color, no deformities or pitting.
HEAD: Atraumatic. No gross or palpable mass, deformity or tenderness
EYES: PERRLA. EOM's full. Conjunctiva and sclera WNL.
EARS: Ear canals clear. Tympanic membranes WNL.
SINUSES: Non-tender.
NOSE: No external lesions, mucosa non-inflamed, septum and turbinates normal, no discharge or blood.
MOUTH: Mucous membranes moist, no mucosal lesions.
TEETH/GUMS: Teeth and gums WNL.
THROAT: No erythema, exudates or mucosal lesions.
NECK: Supple without lymphadenopathy, thyroid abnormality or other palpable mass.
HEART: RSR, JVP normal, HJR negative, no murmur or rub.
LUNGS: No wheezes, rhonchi or rales. Breathing nonlabored.
CHEST WALL: No swelling, ecchymosis, erythema, palpable tenderness or deformity.
ABDOMEN: Soft, good bowel sounds, no HSM, mass, tenderness or hernia.
EXTREMITIES: No deformities, clubbing, cyanosis, synovitis or edema.
MUSCULOSKELETAL: Symmetric muscle tone, strength and ROM. No effusions, deformity, instability or tenderness to palpation.
LYMPHATICS: No palpable lymphadenopathy.
NEUROLOGIC: A/O x 3. Cranial nerves, motor, sensory, vibration, DTRs, RAMs and toes revealed no focal or lateralizing deficits. Gait WNL. Romberg negative.
PSYCHIATRIC: Intact recent/remote memory, judgement, cognition and insight. Normal mood, demeanor and affect.
Speech demonstrated normal rate, fluency and tone.

Dip UA:

Assessment:

ATTENTION DEFICIT DIS WO HYPERACTV : 314.00

Plan:

45 minutes spent with patient, greater than 50% of the office visit was dedicated to counseling, reviewing tests & labs,

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Progress Notes
Bornmann, Parker
Patient ID: BORPA001
DOB: 06/25/1981
Age: 33 years Gender: M

06/25/2014

treatment options and follow up plans.
45

Reviewed strategies and treatment options for smoking cessation.
Tobacco Intervention: Y
«PLINK2:Quitting smoking pt education|167272\Quitting smoking.pdf»
Patient education material provided.
Y

Discussed plan with patient to decrease their BMI to a healthy level.
«PLINK2:Weight Loss Treatments|167273\Weight loss treatments.pdf»
Wieght Loss Education Packet Provided
Y
BMI Plan: Y
DIET SURVEILLANCE/COUNSELING: V65.3

Y

Follow-up: , and PRN if needed
.END

Patient seen / note written by SUE HSIEH FNP-C
reviewed / signed by Dr. Robert J. Bloomberg

Office Visit Level 5 : 99215

Rx: ADDERALL 10MG 1 TAB twice daily , 60, Ref: 2

SIGNED BY ROBERT J BLOOMBERG, MD, Phd (NN) 06/25/2014 08:58AM
REVISED BY ROBERT J BLOOMBERG, MD, Phd (NN) 06/25/2014 10:11AM

EXHIBIT 5

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

**IN THE MATTER OF A
CURRENT MEMBER OF
THE STATE BAR OF ARIZONA,**

**Parker Evan Bornmann,
Bar No. 024909,**

Respondent.

PDJ 2014-9069

**PROPOSED FORM OF
FINAL JUDGMENT AND ORDER**

Cases in Formal Proceedings:

State Bar File Nos. 12-3006, 13-0685,
13-0794, 13-0868, 13-1078, 13-1349,
13-1422, 13-1618, 13-1623, 13-1815,
13-1817, 13-1854, and 13-2278

Cases for Pre-filing Consent:

State Bar File Nos. 13-2394, 13-2587,
14-0149, 14-0232, 14-0431, 14-0451,
14-0470, 14-0586, 14-0593, 14-1190,
14-1313, 14-1314, 14-1726, 14-1828,
14-2045, 14-2179, 14-2279, 14-2304,
14-2338, 14-2549, 14-2593, and 14-
3167

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on December 10, 2014, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Parker Evan Bornmann**, is hereby suspended for one year, effective January 1, 2015. A suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona for his

conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED placing Respondent on probation on the following terms:

a. Respondent shall pay restitution or provide to the State Bar proof of payment in the following cases, by January 30, 2015:

- i. Count 13, SBA no. 13-2278, Borling, \$1,160.00;
- ii. Count 15, SBA no. 13-2587, Bartlett, \$750.00;
- iii. Count 16, SBA no. 14-0149, Day, \$9,680.00;
- iv. Count 24, SBA no. 14-1313, McCabe, \$841.00;
- v. Count 26, SBA no. 14-1726, Ramirez, \$559.50;
- vi. Count 28, SBA no. 14-2045, Hansen, \$200.00;
- vii. Count 29, SBA no. 14-2179, Parent, \$1,000.00, plus the amount of the garnishment to be established by court filings;
- viii. Count 31, SBA no. 14-2304, Harris, \$2,500.00; and
- ix. Count 35, SBA no. 14-3167, Day, \$492.75.

b. Respondent shall petition for and, if his former clients accept, participate in fee arbitration in the following cases, to be completed and all awards paid by June 30, 2015:

- i. Count 1, SBA no. 12-3006, De La Luz;
- ii. Count 2, SBA no. 13-0685, Kain;
- iii. Count 4, SBA no. 13-0868, Benson;
- iv. Count 5, SBA no. 13-1078, Mazurkewicz;
- v. Count 8, SBA no. 13-1618, Fickenscher;
- vi. Count 11, SBA no. 13-1817, Nowak;
- vii. Count 12, SBA no. 13-1854, Hampton;
- viii. Count 14, SBA no. 13-2394, Campos-Fuller;
- ix. Count 17, SBA no. 14-0232, Potter;
- x. Count 18, SBA no. 14-0431, Murrieta;
- xi. Count 19, SBA no. 14-0451, Krah;
- xii. Count 20, SBA no. 14-0470, Griffin;
- xiii. Count 22, SBA no. 14-0593, Uthe;
- xiv. Count 23, SBA no. 14-1190, Smith;
- xv. Count 25, SBA no. 14-1314, Diaz;
- xvi. Count 30, SBA no. 14-2279, Rivero;

xvii. Count 32, SBA no. 14-2338, Stokely-Glidden; and
xviii. Count 34, SBA no. 14-2593, Tellez.

c. During his suspension Respondent must adhere to and comply with the written business plan he produced to the State Bar detailing his anticipated involvement with the law firm that will employ him (the "new law firm") during his suspension. A copy of that business plan is attached to the parties' consent documents as Ex. 1, and its terms are incorporated herein by this reference. The business plan provides a general outline of Respondent's and the new law firm's intentions while Respondent is suspended, and is not intended as a comprehensive enumeration of all of Respondent's and the new law firm's employees' professional and ethical duties. If information comes to light that Respondent or an attorney employed at the new law firm allegedly violated the Rules of Professional Conduct the State Bar retains the right and duty to screen, investigate, and if appropriate prosecute Respondent and/or such attorney(s) for any such violation and not only for a violation of the business plan.

d. Respondent shall continue to contract with Lynda Shely, as he has during his interim suspension, to act as his and the new law firm's practice monitor to assure compliance with the business plan. Should Ms. Shely choose to discontinue her role as practice monitor for Respondent or the new law firm, Respondent may contract with a successor agreeable to the State Bar. The State Bar will not unreasonably withhold its agreement to a successor.

e. During his suspension Respondent shall maintain and/or obtain professional liability insurance covering claims against him, the law firm he owned or with which he was associated during the events described in the consent documents, and the new firm, with liability limits no less than \$100,000 per claim. The State Bar will not initiate proceedings against Respondent if he produces written, corroborable evidence from insurance agents or underwriters that he does not qualify for such coverage.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be placed on probation for a period of two years with the State Bar's Law Office Management Assistance Program ("LOMAP") and Member Assistance Program ("MAP"), or equivalent programs. Nothing stated herein shall inhibit a reinstatement hearing panel from imposing additional probationary terms.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within 30 days from the date of service of this Order. If costs are not paid within the 30 days, interest will begin to accrue at the legal rate.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within 30 days from the date of service of this Order. If costs are not paid within the 30 days, interest will begin to accrue at the legal rate.

DATED this _____ day of December, 2014

**William J. O'Neil, Presiding Disciplinary
Judge**

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of December, 2014.

Copies of the foregoing mailed/emailed
this _____ day of December, 2014, to:

Parker Evan Bornmann
1731 W. Baseline Rd., Ste. 101
Mesa, AZ 85202-5730
Email: evan.bornmann@gmail.com
Respondent

Copy of the foregoing emailed/hand-delivered
this _____ day of December, 2014, to:

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this _____ day of December, 2014 to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: _____